IN THE MATTER OF The Public Inquiries Act, being Chapter 258 of The Revised Statutes of Alberta, 1955, and Amendments thereto; and,

IN THE MATTER OF an Inquiry by a Royal Commission into the matters set out in Order-in-Council 861/67 respecting the use or attempted use by the Honourable Alfred J. Hooke of his office as a member of the Executive Council of Alberta, and the use or attempted use by Edgar W. Hinman of his office as a member of the Executive Council of Alberta.

PROCEEDINGS BEFORE THE HONOURABLE MR. JUSTICE W. J. C. KIRBY

C. W. CLEMENT, Esq., Q.C.,	Commission Counsel
S. A. FRIEDMAN, Esq., Q.C.,	Departments of Government
S. H. McCUAIG, Esq., Q.C.	E. W. Hinman, Esq.
L. MAYNARD, Esq., Q.C.,	The Honourable Alfred J. Hooke
W. B. GILL, Esq., Q.C.,	G. A. Turcott, Esq. Mr. Neil Reimer
G. A. C. STEER, Esq., Q.C.	Dr. C. A. Allard
D. H. BOWEN, Esq., Q.C.	Liberal Association of Alberta
N. S. CRAWFORD, Esq., and J. D. HILL, Esq.	Progressive Conservative Party of Alberta
G. S. D. Wright, Esq.	Alberta New Democratic Party

W. ALAN SHORT, ESQ.,
Clerk to the Commission.

VOLUME No. 32

DATE November 7, 1967
(Pages 3347 - 3456)

Supreme Court Reporters
EDMONTON, ALBERTA

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PROCEEDINGS before The Honourable Mr. Justice W. J. C. Kirby, this 7th day of November, A.D., 1967, at 9:00 o'clock in the morning, at the Court House, in the City of Edmonton, Province of Alberta.

DUDLEY BLAIR MENZIES, recalled, examined by Mr. Clement:

MR. CLEMENT: Mr. Menzies, sir, misunderstood the hour. I had asked him to come at ten o'clock on Friday because there was a previous witness, and he thought we were enjoying the usual Court hours here, sir.

THE COMMISSIONER: That is fine, Mr. Menzies.

Q MR. CLEMENT: Now, Mr. Menzies, you are still under oath for the purposes of this Inquiry?

A I am, yes, I realize that.

Q Now, we had got some way into a discussion of the course of affairs in relation to the Wellington Park Acre Lots 3 and 4 which are designated W on this plan, Exhibit 368, and before I leave the subject of land zoning and land uses I would like you to just inform the Inquiry as to the course of development in respect of subdivision or re-subdivision or re-plotting of this area, including the lots designated "W", and in order that I may furnish the documentary continuity which I have I put before you Exhibit 103, which is a letter from Mr. Armstrong to Mr. Campbell dated August 15th, 1958 advising of the preparation of a new plan of the area, and the accompanying plan which I take it is a re-plot and shows on it how Acre Lots 3 and 4 would come out on the proposed re-plot, a plan showing the whole as I understand it, of Wellington

I-B-1
D.B. Menzies - Clement Ex.

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THE COMMISSIONER: That is time, Mr. Menzies.

Q MR. CLEMENT: Now, Mr. Menzies, you are still under oath for the purposes of this inquiry?

A I am, yes, I realize that.

Q Now, we had got some way into a discussion of the courses of affairs in relation to the Wellington Park Acre Lots 3 and 4 which are designated W on this plan, Exhibit 306, and before I leave the subject of land zoning and land uses I would like you to just inform the Inquiry as to the courses of development in respect of subdivision or re-subdivision or re-plotting of this area, including the lots designated "W", and in order that I may furnish the documentary continuity which I have I put before you Exhibit 103, which is a letter from Mr. Armstrong to Mr. Campbell dated August 15th, 1958 advising of the preparation of a new plan of the area, and the accompanying plan which I take it is a re-plot and shows on it how Acre Lots 3 and 4 would come out on the proposed re-plot, a plan showing the whole as I understand it, of Wellington

Q (Cont.) Park as ultimately re-plotted including the re-plot envisaged by Exhibit 103, I also put before you Exhibit 104 which is a form of consent to re-plotting, and I put before you Exhibit 102 which is a letter dated August, pardon, October 14th, 1958 in the nature of a follow-up letter asking Mr. Campbell to give attention to the earlier correspondence: now, just briefly, Mr. Menzies, would you deal with the situation of the re-plotting and what the ultimate result was?

A Well, as I pointed out at the last meeting, the plans for Wellington Subdivision in whole had been going on for many years, and by 1957 we had reached the point that the only area left to be included in the overall plan was that on which the, it was, it included Lots 3 and 4 as well as some other land just to the immediate west and north.

Q Yes, and this was, the people living in that area, as I recall what you said, were pressing for the completion of this?

A Yes, all the people in the area and the developers who owned the land were desirous of getting it subdivided and made available for house building.

Q Yes?

A And thus it was that we sent the customary document to the owners of these lots and asked them if they would agree to being incorporated into the plan and with the understanding that they would give up their land and obtain new lots in the new subdivision for it.

Q Yes?

(Cont.) Mark as ultimately re-platted including the re-plat envisaged by Exhibit 103, I also put before you Exhibit 104 which is a form of consent to re-plotting, and I put before you Exhibit 102 which is a letter dated August, pardon, October 1 th, 1958 in the nature of a follow-up letter Mr. Campbell to give attention to the earlier correspondence now, just briefly, Mr. Menzies, would you deal with the situation of the re-plotting and what the ultimate result was Well, as I pointed out at the last meeting, the plans for Wellington Subdivision in whole had been going on for many years, and by 1957 we had reached the point that the only area left to be included in the overall plan was that on which the, it was, it included lots 3 and 2 as well as some other land just to the immediate west and north

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Yes?

And thus it was that we sent the questionnaire document to the owners of these lots and asked them if they would agree to being incorporated into the plan and with the understanding that they would give up their land and obtain new lots in the new subdivision for it.

A They didn't, they never replied.

Q You are talking about Mr. Campbell now?

A To Ideal Homes, right.

Q Yes, well, Mr. Campbell or Ideal Homes?

A Yes.

Q They both appeared to be identical in interest as far as this land is concerned?

A They became what we generally know as "non-consenting" owners of property in the re-plot.

Q Yes, in other words this form of consent which accompanied Exhibit 103 was never returned to you?

A That is correct.

Q And was there any particular objection made so far as you know by Mr. Campbell or Ideal Homes to the re-plot?

A Well, I can only assume that they had always had a hope that this land could be re-zoned for something that would enhance its value considerably. They, in 1957 they had tried to get the land zoned for "commercial", and they definitely had the idea of selling it to a group who wished to put a hotel on it, and they went through the customary procedure of trying to get it re-zoned and they ran into trouble with the surrounding property owners who were opposed to a hotel, particularly a license, and they were unsuccessful; and it is just possible their thinking was "We don't want to agree to going into this plan because we will come out with residential land and fundamentally we hoped we would come out with something of much greater value."

Mandamus - cont Ex.

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To Ideal Homes, right.

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thing higher value."

Q Mr. Menzies, you have spoken of the desire to have Lots 3 and 4 zoned for "commercial"; I put before you Exhibit 100: now, I am not suggesting that this was known, that this letter was known to the City, but if you would read it, would you tell me whether that relates to the desire for "commercial" zoning that you have spoken of?

A I have seen this letter.

Q Well, I showed it to you, it did not come out of the City files though.

A But, yes, it does, it is related to their desire to get enhanced value for the property.

Q Yes, would you like to see this, sir?

And in the net result the re-plotting was accomplished and Campbell and Ideal Homes came out with a number of lots in place of Acre Lots 3 and 4, and those lots that they came out with are shown on, where is that, shown on this portion of re-plot which accompanied Exhibit 103?

A That is correct, yes.

Q And in, to be precise, as I understand it, they embrace Lots 17 to 23 inclusive in Block -

A 33.

Q - 33, and Lots 19 and 20 in Block 32?

A That is correct.

Q Yes. Well then, that is the way it still stands?

A No, there have been subsequent re-zonings.

Q Well, I meant as far as re-plotting?

A They still own it, yes.

Mr. Chairman, you have spoken of the desire to have Lots 3 and 4 zoned for "commercial": I put before you Exhibit 100: now, I am not suggesting that this was known, that this letter was known to the City, but if you would read it, would you tell me whether that relates to the desire to "commercial" zoning that you have spoken of?

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No, there have been subsequent re-zonings.

- I meant far as re-plotting?

Q They still own it, they still own those lots I have referred to, being Lots 32 and 33?

A They still own all those lots to the present time, as far as I know.

Q Yes. Now then, you were, well, Mr. Menzies, perhaps we could just take the other branch of the matter, the zoning and re-zoning of this area in which Acre Lots 3 and 4 are included; you have told us that for a start they were "B" dwelling and that was at the commencement at our point of interest, 1950 or thereabouts. Now -

A At the time the plan was adopted, though, these lots did get a status, a zoning status, and they got what is known in the present bylaw as "R1" status.

Q Now, do you mean at the time that the re-plotting went through?

A Yes.

Q And what is the R1 status?

A R1 is the one family for one family houses.

Q That would be similar to the old one then?

A Very similar to the old B under the original bylaw, yes.

Q Yes, had there been, as I recall what you had said, the Ideal Homes had been operating there on a "commercial" basis on a sort of an interim license effect, which for a limited period of time they were permitted despite the zoning, to carry on the business or businesses they were carrying on there?

A That is correct, they were operating there for a, for a three

A (Cont.) year period with a permit from the Interim, either the Planning Department or the Interim Development Appeal Board, and they were operating within the requirements of the bylaw as I understand it.

Q Yes. Mr. Menzies, could I just refer for a moment to the Exhibit, the letter of April 5th, 1965, from the City solicitor to the City Commissioners, on page 3 this appears:

> "A development permit was issued on November 5th 1952 to Ideal Homes to use Acre Lot 3 and Acre Lot 4 as office, storage and prefabricating shop for a two year period, but a letter written to the Zoning Officer in the Planning Department of the City on November 16th 1954 makes it plain that the property, if approved, would not be occupied by Ideal Homes but by a firm called Acme Pipe and Supply Company Limited, of which no record can be found in the Companies Branch."

Do you have that documentation here that is referred to?

A I believe I have, yes.

Q Do you have a copy of this to follow, I am on page 3?

A Yes.

Q Now, the letter of November 16th, 1954, do you have that or will Mr. Rodgers have that?

A Mr. Rodgers presumably will have it.

Q You don't have it with you?

A No. No, I have not that letter with me.

Q Yes, and the paragraph goes on to say:

> "The Manager, according to the letter, was a Mr. I. E.

[illegible] - Ex. [illegible] 4 Ex.

[illegible] 6.) year period with a permit from the Interim, either the Planning Department, or the Interim Development Appeal Bda [illegible] and they were operating within the requirements of the bylaw as I understand it.

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[illegible] have [illegible] from?

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[illegible] goes on to say:

[illegible] letters was a Mr. L. B.

Q (Cont.) Mallard, and he stated that one of the partners in Ideal Homes, a Harry Spady, had been told in 1954 that he would be allowed to carry on that location for five years. Mallard quotes Mayor Hawrelak as having made that promise."

Do you have any knowledge of that aspect?

A I have no knowledge of that.

Q I see, you don't know anything about -

A I mean of the promise, I don't know anything about it, no.

Q Then, up to this point we wind up with a two year license for non-conforming use, and that takes us to when, 1954 or 1956?

A It takes us to November 1954.

Q Yes, and then would you carry it on from there?

A Well, in November 1954 the Planning Department advertised to the neighbourhood that Acme Pipe was applying for a five year permit to continue the operations that they had been carrying on during the years 1952 to '54.

Q Yes?

A And about a month later, in December of 1954, the Interim Development Appeal Board granted a three year extension which would bring it up to the end of 1957.

Q Yes?

A But they stipulated that that agreement had to be confirmed legally in a document which would be prepared by our solicitor and signed by the company, and which was done.

Q And do you have that document?

A I, no, I don't happen to have it with me, I think maybe Mr. Macdonald would have it if you wished that.

Q Yes, very well, and this memorandum from Mr. Macdonald, the City solicitor, to the City Commissioner says this:

> "Several important conditions on the approval which had to be incorporated into a legal agreement, the chief one was that if despite the three year period granted to the company the City re-zoned the land for a purpose inconsistent with the "light industrial" occupancy, then the City would pay to the company a sum not in excess of $9,000.00 to compensate them for improvements that it might put on the site while it was operating under the development permit."

Now, would you deal with that for a moment, we haven't got the document before us yet, can you tell us whether that condition was carried forward in the agreement?

A No, it was not carried forward, the essential details were carried forward, but the provision suggesting that the City compensate the company by $9,000.00 did not get incorporated into the final agreement.

Q Yes?

A The $9,000.00 item was suggested by members of the Interim Development Appeal Board.

Q I see, yes?

A And, incidently, a Caveat was filed against, in connection with that agreement, against the property.

Q A Caveat filed by the City?

Ex.

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I see, yes?

Incidentally, a Caveat was filed against, in connection with the agreement, against the property.

A Right.

Q I see, yes. Now then if you would carry on with the sequence of events, Mr. Menzies, this takes us up to December 7th, 1954, and the agreement consequent upon the Interim Development Appeal Board's decision, and the City's rejection of a portion of it, the $9,000.00 portion; would you carry on with the development of matters after that time?

A Well, as I have mentioned earlier, we tried to get the company to come into the plan, we didn't get their agreement, but we did get, the Council did feel that the plan had to be registered and in November of, November of 1958 the plan was ratified by City Council, and that put that plan into effect, which gave them those lots.

Q Yes, so that the re-plotting is complete?

A Yes.

Q Now, were there any further negotiations between Mr. Campbell or Ideal Homes or particularly All West Distributors which came into the picture in and around this time?

A Not to my knowledge.

Q That being Mr. Campbell's company?

A Well, if you have reference to later requests that came in in the '60's to have the lots that are located on 127th Street re-zoned for, from their original zoning to a higher zoning?

Q Yes, I wish you would just deal with the whole of this history of these lots then from 1958 onwards, Mr. Menzies; would you just give us the historical development; I realize

see yes. Now then if you would carry on with the sequence of events, Mr. Menzies, this takes us up to December 7th, 1954, and the agreement consequent upon the Interim Development Appeal Board's decision, and the City's rejection of a portion of it, the $9,000.00 portion; would you carry on with the development of matters after that time? Well, as I have mentioned earlier, we tried to get the company to come into the plan, we didn't get their agreement but we did get, the Council did feel that the plan had to be registered and in November of, November of 1958 the plan was ratified by City Council, and that put that plan into effect which gave them those lots.

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Q (Cont.) that in part you will be speaking from hearsay, but in order for us to understand the development that will be necessary at this stage, and we will call other witnesses to support the hearsay part?

A Well, an effort was made by the company to have the zoning of the lots, particularly, the lots that are facing on to 27th Street up-zoned, and their first request was to get it into what was known as R6.

Q Would you describe that?

A R6 zoning is zoning which provides for high-rise apartments.

Q Yes?

A And the same type you see all over town, the very high ones. This matter went to the Municipal Planning Commission as it is required under the Legislation, and they would not support such high-rise, such high zoning, they felt it out of place in such a remote area, and they did make the suggestion that they saw justification for it being raised to R4, which makes provision for not a high type of development, usually about four story apartments, but negotiations continued and I think ultimately they were successful in having those lots on 127th Street zoned to R5 which was half-way between R4 and R6, and today I think the lots, well, I know the lots on 127th Street are zoned as R5.

Q And that is the way they stand?

A That is the way they stand today. Now, the documentation that carries on all this, I don't happen to have it with me, but Mr. Rodgers, I believe you are calling to put in that.

Q Yes, what period of time did this involve, Mr. Menzies?

A This was in the last two years.

Q I see.

A It was just during the latter part of the time when Mr. Hamilton was still a Commissioner with the City, just prior to his leaving us, and that was about two years ago.

Q Now Mr. Menzies, we discussed briefly the matter of a trade of land in the time of Mr. Rault?

A That's right.

Q In which he had discussed with Mr. Campbell a trade of this property for the area in the Bronx, I believe, designated as L?

A For the four lots on 129th Street just north of 127th Avenue.

Q And that had fallen through and at that time your information was that Ideal Homes had started to demolish its buildings on acre Lots 3 and 4 in anticipation of moving to the City property on the trade?

A Well, I didn't know that at the time.

Q I know, but you found that out later. Do you know how long Ideal Homes carried on a business or commercial operation or industrial operation up on Lots 3 and 4 in Wellington?

A I am sorry, I can't give you that answer.

Q You can't give us that so, you don't know whether they were carrying on any business as late as 1960?

A I am sorry, I can't say that, no.

Q Very well, were there further negotiations for trade of property with the City?

A Yes. Over the years I can recall at least on two occasions during Mayor Hawrelak's tenure, both during his first one and during his second tenure, his calling me into his office and saying that he had been discussing the problem of Ideal Homes and that its officer had indicated to him that they would very, very much like to get some City owned land

A (cont.) located at the southeast corner of 137th Avenue and the St. Albert Trail.

Q Well now, there is a red spot on this plan, Exhibit 368, Mr. Menzies?

A Yes.

Q Is that what you are speaking of?

A I am speaking about that property, yes.

Q You will observe that, My Lord. Yes, will you carry on?

A Apart from the business end of it and any negotiations for money, I had to point out to Mayor Hawrelak and subsequently to two other Mayors that this particular property was wanted for many, many years in connection with a proposed ring road and that when that road ultimately comes into being and, we are planning it at the present time, that that property would be cut off and that I could not recommend that that land be allowed to get out of the possession of the City until this road business was straightened out.

Q The City owned this, I suppose it owned a very substantial area up in this corner?

A Still owns it, yes.

Q And the ring road, of course, would cut diagonally across that corner?

A The idea is to cut the road diagonally across and well down into that property.

Q Yes?

A And the planning was not completed, it is in the schematic stage, never pinned down to the actual positioning and there-

Clement 8A.

(cont). Located at the southeast corner of 127th Avenue and the St. Albert Trail.

Well now, there is a red spot on this plan, Exhibit 26B, Mr. Menzies?

Yes.

Is that what you are speaking of?

I am speaking about that property, yes

You will observe that, My Lord. Yes, will you carry on? Apart from the business end of it and any negotiations for money, I had to point out to Mayor Hawrelak and subsequently to two other Mayors that this particular property was wanted for many, many years in connection with a proposed ring road and that when that road ultimately comes into being and we are planning it at the present time, that that property would be cut off and that I could not recommend that that land be allowed to get out of the possession of the City until this road business was straightened out.

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Sir?

A. Clear. Was not completed, it is in the schematic or pinned down to the actual positioning and thereon

A (cont.) fore I have always tried to keep our land intact until a final plan is ready.

Q Do you know how long Mayor Hawrelak had been interested in it?

A Well, I believe that the officers of Ideal had had a discussion with him and did ask if the Commissioners would be prepared to support such an exchange and I had to say to him I couldn't support it because, there is no utilities in that area, even today. They are half a mile away and it just meant we would have another problem had we got into that.

Q I see, so you had discussions of this with Mayor Hawrelak and two other Mayors did you say?

A Yes, I recall at least once during Mayor Hawrelak's first term and I remember after he came back into office again this came up and again the company expressed an interest in this property and after Mayor Hawrelak had gone out, I recall Mayor Roper calling me into the office and again saying he had been talking to the people from Ideal and again they would like to get this particular property.

Q Did you get any information from either of those Mayors as to who they were referring to when they spoke of the people from Ideal Homes?

A No I don't recall him saying it was a certain person he had talked to, he just said, they did say they had been talking to people associated with it and wanted to know what the status of that particular property was.

Q I see. Were the Mayors giving you any argument or just finding out?

A They weren't arguing very strongly. Mayor Roper, I went through the same procedure with Mayor Roper and I went through the same procedure later with Mayor Dantzer. He too called me in to find out if there is a possibility of this land being traded.

Q And you steadily opposed it and the exchange still hasn't been made?

A Yes, I opposed it, I suppose. I couldn't endorse it.

Q Well, you have explained why, of course, yes. Now, what other propositions were put up Mr. Menzies in the way of exchange and the likenot of the Wellington Park lots?

A Well, I should point out that at the time Mr. Morrow appeared before Council to present the brief, I think you will probably be handling it later, that it was handled by the finance committee of Council and they heard this story and I think they implied that could we find some land that could be traded for the land up in Wellington, somewhere else in the City where Mr. Hooke and his group could possibly erect a hospital under this legislation that had gone into being three or four years ago.

Q This mercy home sort of thing?

A Yes, and Council instructed us to look around and see if there were any potential sites. Finally we came up with an area that we thought would be quite good for hospital purposes and land which we owned but, the zoning of that land

A (cont.) was not such that it would take a hospital.

Q Where was that land?

A That land was located immediately north of the Children's Zoo.

Q What is the name of the area?

A Buena Vista.

Q Immediately north of the Children's Zoo places it about where on this map Mr. Menzies? I guess you had better come along, I want to be able to find it. (Witness leaves witness box.)

MR. CLEMENT: At the suggestion of counsel sir I have labelled that BB and here I am pointing to the precise portion which is way down at that deep bend of the Saskatchewan River.

(Witness returns to witness box.)

A In any case, the proper advertising was carried out to change the zoning of that property to zoning which would accommodate a hospital, that entails two advertisements in the paper and a hearing.

Q MR. CLEMENT: Yes?

A It raised quite a furor out in the area among all the people living out there and when it finally came before Council they decided they weren't going to change the zoning so therefore we didn't even have to get down to the question of business dealings, it was a straight question that we couldn't find land that would be acceptable to them.

Q Well now Mr. Menzies you have spoken of a presentation by Mr.

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Where was that land?

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Menzie, you have spoken of a presentation by Mr.

Q (cont.) Morrow to Council?

A Yes.

Q About when was that?

A I think it was in 1964 or 1965.

Q I see?

A 1965.

Q 1965 and the effort to effect an exchange with respect to the Buena Vista property was subsequent to that?

A That's correct.

Q And as an explorational means of trying to effect some settlement, you might say, with Mr. Hooke?

A I think that was the intent, yes.

Q Was Mr. Morrow representing Mr. Hooke on this occasion, the presentation to Council?

A I am not sure whether he was representing Mr. Hooke per se or Ideal Homes but he was representing one or the other, I forget which one it was.

Q Yes. This is a matter I would like whatever assistance you can give Mr. Menzies because the documentary records show that Mr. Hooke ceased to become a shareholder of Ideal Homes, I think it was in 1953 and ceased to become a director in 1955 and we are now at a much subsequent date. If you are able to say whether Mr. Hooke was interested in this application I would be very glad for you to do so?

A Very definitely I think Mr. Hooke was interested in the application because he appeared before the committee.

Q I see?

A I must say that most of these transactions had been taken over in the earlier years I handled most of the land deals but in the later years Mr. Hamilton and he handled all these latter exchanges more than did I.

Q Yes, well of course, Mr. Hamilton will be along, I am merely asking you this in recognition that much of it isn't in your personal knowledge in this latter period but in order for me to understand how this developed so we can follow the rest of the evidence more easily.

A Right.

Q Now, in the interval and, let us say prior to the presentation to Council in 1965, was there anything else that you had to deal with in connection with the dealings between the City and Ideal Homes or Mr. Campbell or Mr. Hooke?

A Yes, back in 1963, between -- in the winter of 1963 Mr. Hamilton came into our office one morning and said that a document had been delivered to his office unsigned and with no signature at the end and that on opening it he had read it over, he found that it dealt with a number of the transactions that had taken place and which had been discussed in this court earlier and he made it available to me, Mr. Macdonald and a Mr. Tweddle and each of us read it over.

Q Now Mr. Maynard has produced a document from his files, do you mind if I show this to the witness?

MR. MAYNARD: No.

Q MR. CLEMENT: Would you tell me whether that is

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Now Mr. Maynard has produced a document from his files, do you mind if I show this to the witness?

ARD: [illegible] No.

CRAMER: Would you tell me whether that is

Q (cont.) a copy of the document you are referring to?

A I don't think this is the document, no, because it wasn't addressed to the -- I don't recall it being addressed to the Land Committee. I just remember the document coming in but I would have to --

Q Well, perhaps if you would take a moment, this is the only document I have been able to find which resembles the unsigned document you have been speaking of?

A Much of the information that is in this document --

Q Oh, wait a minute, wait a minute, my friend Mr. Gill is ahead of me by some means, would you look at this one?

MR. GILL: This happened to be in my file Mr. Clement without the Exhibit.

A Yes, this appears to be the document that I was shown by Mr. Hamilton.

MR. CLEMENT: Yes, I think I will have it marked sir, it will be referred to again.

THE COMMISSIONER: Exhibit 379.

DOCUMENT UNDATED, UNSIGNED MEMORANDUM OF EIGHTEEN PAGES ENTITLED THE HISTORY OF IDEAL HOMES ENTERED AS EXHIBIT 379.

MR. GILL: I wonder Mr. Clement if I might have a copy.

THE COMMISSIONER: Would you identify it for the record?

MR. CLEMENT: Mr. Commissioner, I think it would be of assistance if we asked the Court Reporters to make several copies of that for the convenience of counsel.

THE COMMISSIONER: Yes, could you identify it for the record?

MR. CLEMENT: This is an undated, unsigned Memorandum of eighteen pages entitled the History of Ideal Homes Limited. Excuse me sir, there is a curiosity here.

That is as far as it can be described at the moment sir. The opening sentence is "A private company Ideal Homes Limited was incorporated in June 1950 by Mr. Harry Spady and me."

THE COMMISSIONER: That is sufficient.

Q MR. CLEMENT: Very well, now, this reached you then in the manner you have described, Mr. Hamilton brought it in?

A That is correct.

Q And you read it over?

A And I read it over, yes.

Q And what did it convey to you?

A It conveyed to me that the writer was under the impression that as a result of a number of transactions between the company and the City that the company had suffered financial loss.

Q Yes?

A And it pointed out a number of the items in which it thought it had lost money but it wasn't too specific, it didn't say it lost money against this item and this much against this much or anything like that, it was a general statement which you will see upon reading it.

Q Did you get an impression from reading it as to who might have composed it?

A No, I don't know who composed it.

Q You don't know who incorporated Ideal Homes back in 1950?

A Well, I know that Mr. Hooke had a part in it.

Q Well, in any event, as to the items of complaint Mr. Menzies, would you just briefly recapitulate them, the items of complaint appearing in that Exhibit?

A Well, now I would like you to understand, that document, I have not a copy of that original document, it sort of disappeared off the scene but I do recall that mention was made of the three land transactions that I had discussed when I was here last week.

Q I am principally concerned as to whether it raised any matters that you haven't already discussed?

A Not to my knowledge no.

Q Very well, then will you give the course of development after you received that document?

A Well, having received the document, I was very much interested and naturally I started an investigation and a survey to go back through the whole history of it and try to ascertain in my mind if I felt that damages had been created and was there a proper brief.

Q Yes?

A And I studied particulary, my chief study concerned the three, the original lease of the property for the prefabrication of

A (cont.) homes; it also included studying the original Capilano exchange and, it finally came back to this Lots 3 and 4. Primarily those were the three items in which I was interested to see whether I thought any damages had been caused.

Q Yes. Well now, as is abundantly apparent Mr. Menzies I haven't had an opportunity of reading this instrument either. Do you recall what the conclusion of it was, was it putting forward a claim for recompense or, what was the purpose of the instrument?

A No, it was a statement of -- it was merely a statement of the opinions of someone as to what had happened over that period of time.

Q And you say there was nothing in there suggesting any course of action on the part of the City?

A I don't think there is. I'm not sure, to be quite honest, because there is another event that takes place after that does bring the other point up.

Q Oh, yes. Well, the concluding paragraph reads:

> "All I'm asking now is justice and not special favors, and on the basis of my present offer of settlement the citizens of Edmonton will still be ahead, but at least the problem will be solved."

You don't recall what this offer of settlement was?

MR. GILL: A hundred and forty thousand dollars, Mr. Clement, cash.

A In that document?

MR. GILL: In that document, sir.

Q MR. CLEMENT: You have reached that by an addition of several sums that are mentioned in it?

MR. GILL: No, sir; I think if you turn back somewhere in the middle of what I might call the --- there is $200,000.00 less 9, leaving 190 --- somewhere he says he is prepared to forgive 25% of $190,000.00, and will transfer the land to the City of Edmonton -- will transfer the nine lots to the City of Edmonton for the amount of $140,000.00 cash. I think that you might point out to the

MR. GILL: (Cont.) learned Commissioner, Mr. Menzies, that this gentleman says that he is a cabinet minister, and it's fairly plain that -- .

MR. CLEMENT: Well, there's not going to be much difficulty -- .

MR. GILL: In establishing that, sir.

MR. CLEMENT: In establishing that. In any event, Mr. Gill has been good enough to point out at pages 14 and 15, Mr. Menzies -- which no doubt had escaped your memory over the past few ---- .

A Yes -- the figure of $100,000.00 definitely is in my mind, and not having read that document over I --- we took off copies but unfortunately before these hearings I tried to find one to re-read it, but I couldn't find one. The sum of $100,000.00 stands out in my mind -- as a result of what you are going to ask me next, I presume.

Q Yes -- well, go ahead then, without waiting for me to ask it. You got this, read it, considered it, made some investigation, and what were your conclusions?

A And I discussed it with Alan Macdonald in a very detailed way, and we came to the conclusion that there was no justification for the claim.

Q Was this letter of April 5th the result of that discussion, April 5th, 1965?

A No, that letter, April 5th, 1965, comes into being at the time that Mr. Morrow comes into the picture.

Q Very well. This is earlier?

A This is earlier -- this is 1963.

Q Yes. Well then, would you go ahead with the course of the history of the matter?

A Well, I should first of all point out that when that document came to Mr. Hamilton, Mayor Roper had been in the hospital for an operation and was not present in our office during that period of time. He was home. He was home recuperating from the operation, and we could not discuss it with him at the office. About a week or so after Mr. Hamilton received this document and had shown it to us, and we had studied it a bit, he then came in and told us that on the previous night Mr. Campbell had come to his home and had had a discussion with him, the gist of which I recall was that -- .

Q Just a moment. Mr. Commissioner, this, of course, is hearsay, and I'm not asking that you accept it as any proof of what is alleged to have been said between Mr. Campbell and Mr. Hamilton. I'm asking Mr. Menzies for this at this time to show the reason for actions on his part. Mr. Hamilton will be called in due course.

THE COMMISSIONER: Yes; it will be admitted on that basis.

Q MR. CLEMENT: Just go ahead, please, Mr. Menzies.

A Well, he came in and reported that Mr. Campbell had come to his home, had said that we had now had this document for a period of time, a week or so, and that he, as I recall, felt that we should now be beginning to take some action on

A (Cont.) the matter, and that it was -- that we as Commissioners should go to Council and make a recommendation for some payment -- or deal with the matter in some monetary way.

Q Yes. Is that as far as was reported to you by Mr. Hamilton?

A That was the main issue. He did say that -- the impression I got -- I will have to put it in that form -- was that Mr. Campbell that failing our doing something about it that his group would probably have to think about possibly taking legal action.

Q Very well. So, with that, then, what happened?

A Well, we discussed the matter among ourselves as Commissioners with Mr. Macdonald, and we decided that this matter was so important that we had to make Mayor Roper acquainted with what had taken place.

Q Yes.

A And we accordingly arranged a meeting at his house on a Sunday afternoon; he was still incapacitated and had not fully recovered, but the three of us went out to his house and we discussed this whole matter, the question of the original -- and the subsequent visit of Mr. Campbell -- and after we had thoroughly threshed it out, we came to the conclusion that we were not prepared to go to Council and recommend any cash adjustment or acceptance of land or any such thing. We did not feel that there were damages due.

Q Well, that was the conclusion, then, reached by the three City Commissioners?

A And the Mayor.

Q And the Mayor, yes.

A That we would not go to --- that we would not recommend to Council as Commissioners that this be done.

Q Yes; what happened after that?

A Nothing happened after that. It lay dormant, then, the whole situation lay dormant for two years.

Q I take it that somebody communicated that decision, then, to Mr. Campbell, did they?

A I don't know whether it was done -- whether he was told no, or whether --- .

Q You don't have any personal knowledge of that?

A I don't know how he was acquainted -- or if he was acquainted that we would not act on it.

Q Well -- .

A I don't know that.

Q But it lay dormant for two years, you say?

A For about two years, yes.

Q And that would bring us to 1965?

A This brings us to 1965.

Q There is in evidence, Mr. Menzies, Exhibit 101, which is dated April 27th, 1964, and headed "Addendum to Commissioners' Report No. 24". How does that fit into this sequence of events?

A Well, at that time a further brief was placed in the hands

A (Cont.) of the City, which, incidentally, compared very favorably -- very much with the original one: most of the points that were raised in the original one were repeated in this next official document that came to -- and was presented to Council by Mr. Morrow.

Q Now, is this document by any chance the one you are now referring to?

A Well, it deals with the matter -- it doesn't look to me the exact one; I was under the impression that it was in a little bit different form, but I see by looking at it that it has a certain amount of -- it deals with the subject matter that Mr. Morrow dealt with.

Q To the "Land Committee" --- it's quite different from "To the Aldermen" -- you are not able to give that any positive identification?

A No, I can't give that.

Q You don't know of any written submissions made to the Land Committee at any time?

A Well, I'm surprised to see "To the Land Committee" because the Land Committee is not a very important Committee in Council. Where this matter was dealt with by Council was through the Finance Committee which is a much more --- a bigger body and a body that functions for Council much more than the Land Committee.

Q Yes. Well then, I'm sorry to have interrupted you. Just carry on with Exhibit 101.

A Well, again, we -- now that it was officially before Council

A (Cont.) we again studied it as Commissioners and we again came in -- had Mr. Macdonald study it again -- and we again reported to Council that we could not recommend any monetary settlement on these claims.

Q Yes.

A And the Finance Committee concurred in our recommendation, and the report went back to Council that way, and no payment was made.

Q Then the next stage was a submission by Mr. Morrow on behalf of Ideal Homes, I take it?

A Well, I'm not sure about that. I'm not sure whether the submission by Mr. Morrow was on behalf of Ideal Homes or on behalf of Mr. Hooke, but in any case he did appear before Council to argue that there was a claim for damages.

Q And this document, then, was prepared -- of April 5th, 1965-- was prepared by Mr. Campbell as a result of this application by Mr. Morrow?

A I presume that's the way it would be.

Q Well, you saw it, of course?

A Yes, I saw it, yes, I saw it.

Q Now, throughout this period of time, Mr. Menzies, did you have any communication, direct or indirect, with Mr. Hooke in respect of any of the matters that you have spoken of?

A No, I did not.

Q None at all.

A No.

Q Did you have a -- ?

A You are talking in the early years, yes -- but I -- I presume you are talking from, say, 1963 on?

Q Well, let's take it in two stages, then: in the early stages, that had to do with the Capilano exchange and you have already told us the extent of your negotiations?

A Yes.

Q Relating to that, and that was back in 1954 or somewhere?

A Yes, it was a part of that transaction.

Q And -- .

A And I did talk to Mr. Hooke about that, on occasion.

Q Yes, and the 1950-1952 lease, did you have any particular discussion -- ?

A I definitely had dealings on that, yes.

Q And then after that, in respect of Wellington Park, what -- did you have any discussions with Mr. Hooke on any of these aspects affecting Wellington Park?

A Yes, I -- I spoke to him on one or two occasions about it. It became obvious to us that we were going to be confronted with a utility problem once his land became part of the new replot, and that we would have to get permission or get his assistance to get us an easement across one of his lots in order to get an underground sewer in, and an overhead --- and I went to him and he was very kind and agreed to allow us to register an easement in -- to get that sewer in, and to get that pole line across, which was the means of serving the whole area.

Q This was in at about 1957 or '58 then?

[illegible] talking in the early years, yes -- but I -- I
[illegible] you're talking from, say, 1953 on?
Well, let's take it in two stages, then: in the early
that had to do with the Capilano exchange and you have
already told us the extent of your negotiations?
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Yes, it was a part of that transaction.
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discussion -- ?
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[illegible]ole line across, which was the means of serving

[illegible] about 1957 or '58 when?

A This would be -- yes, it would be in and about that time.

Q Yes.

A And he allowed that caveat to be filed.

Q Yes, and what other further discussions do you recall with him -- good, bad, or indifferent -- whatever they were?

A I don't recall any -- any others in later years. I had quite a lot in the earlier years, but not in later years. It seems to me it was with other people with whom he dealt in the later years.

Q Well, then, let us come to Mr. Campbell, and disregarding the Capilano and the lease -- did you have any discussions yourself with Mr. Campbell in respect to any aspect of the Wellington Park lots?

A I don't recall having any, no, not with him.

Q If there were they weren't significant enough to stick in your memory, is that it?

A Oh, they would stick in my memory, yes.

Q But you don't recall any?

A No, I don't recall dealing with him.

Q Thank you. Would you answer my friends?

THE COMMISSIONER: Mr. Gill?

MR. GILL EXAMINES WITNESS:

Q Thank you. Mr. Menzies, we will deal first with the exchange of the land we have marked on Exhibit 368 -- there is a 5 for Block 5. You had something to do with that, did you not, sir?

A I did, sir, yes.

Clement
Gill Ex

This would be [illegible] yes, it would be in and about that time [illegible]

Am he also had that covenant to be filed.

Ye , and what other further discussions do you recall with hi -- good, bad, or indifferent -- whatever they were?

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Oh, they would stick in my memory, yes.

But you don't recall any?

No, I don't recall dealing with him.

Thank you. Would you answer my friends?

MTSRTOWER. Mr. Gill?

[illegible]

[illegible] of the land we have marked on Exhibit 38 -- there [illegible] Block 5. You had something to do with that.

Q And in effect did not the City of Edmonton, in return for Mr. Hooke's Block 5, find him land and a purchaser and a profit of $16,000.00?

A No, I don't think we were a party to that.

Q Well, you did --- .

A We did -- .

Q -- exchange that land?

A We negotiated an exchange of land and we entered into an agreement with him that he would build within a prescribed period of time on that.

Q But in the meantime Federal Equipment had been found by the City of Edmonton?

A No, I can't agree with that.

Q Who put Mr. Hooke and Federal Equipment together to make a deal?

A I don't know; I have no idea.

Q I see. May I see Exhibit 379, please -- that long statement? Thank you. Do you know what profit Mr. Hooke made on his exchange with the City of Edmonton of Block 5?

A Do I know?

Q Yes.

A What he ultimately made?

Q Yes.

A I have learned since studying for this case what he is supposed to have made, so much money, yes.

Q How much?

A I think it was in the order of $12,000.00, if I'm not mistaken.

Q Twelve. What was Block 5 originally zoned for, do you know, sir?

A I think it was what is known as agriculture, likely.

Q Yes, and its next zoning?

A Well, it wouldn't get any zoning until the replot would be registered.

Q Did the City originally want it for park land?

A We wanted it for a combination of park land, and to look after major road construction that we had to do in that area.

Q But eventually you did sell it for residential?

A We -- well, you've got to realize that in preparing a replot you take the mass of land, you come up with the plan you want, you get the roads and the park land -- it doesn't necessarily follow that what we wanted for park would lie on his property, or what we wanted for road would lie on his property, but we have to have a certain amount of land to put into the pot in order to come out with the land that we need for our purposes.

Q I see.

A And we came out with a major road allowance, which was the major thing that we needed.

Q It is stated in Exhibit 379 that this person who refers to himself as a cabinet minister, a minister of the Crown -- do you know who wrote Exhibit 379?

A I do not know, no.

Q Did you telephone A. J. Hooke that you would refer Mr. French of Federal Equipment to him?

A No, I did not.

Q Did any other Commissioner to your knowledge refer Mr. French of Federal Equipment to Mr. Hooke?

A At that time the only other -- the only other Commissioner who could have would be Mr. Hodgson, and I don't recall his having said so.

Q His duties at that time were what?

A He was one of two Commissioners.

Q You were the other one?

A I was the other, yes.

Q And Mr. Hodgson's duties included what?

A He was primarily concerned with -- he did a certain amount of handling our land sales, but he was primarily our financial man. There is a possibility at that time that we had what was known as an Industrial Commissioner, a Land Commissioner, a man by the name of Curtis, who might have possibly been approached by someone trying to find land for Federal, but I have no knowledge of that having been done.

Q You say, really, the City of Edmonton was not instrumental in finding a purchaser for Mr. Hooke?

A I don't think so, no.

Q You say that that was not part of the deal?

A No, it was not part of the deal.

Q As I understand it, the City of Edmonton wanted to get hold of Block 5?

A Fundamentally, yes.

Q And were prepared to sell to Mr. Hooke the land on which Federal Equipment later built?

A That is correct.

Q And wanted some $12,000.00 from Mr. Hooke to give him what I will call the Federal Equipment land?

A To make up the difference between the values of the two properties.

Q And Mr. Hooke said he couldn't afford this?

A I don't recall that.

Q He didn't give the City of Edmonton $12,000.00?

A I don't know if he did or didn't.

Q But he did get the property?

A I presume he did, yes.

Q That's in evidence, and I think you were shown it, were you not?

A You mean that it was transferred to him?

Q Yes.

A I have every reason to believe he got title to the land, yes.

Q And then he immediately transferred to Federal Equipment?

A Conceivably he did, yes.

Q You know nothing about that transfer?

A No, I know nothing about it. I merely know that we were the initiators of it, and we wanted the land in Capilano primarily.

Q And you found him a purchaser as well?

A I will not agree with that. I didn't or I have no knowledge--.

Q Well, did the City of Edmonton find a purchaser?

[illegible] to sell to Mr. Hooke the land on which [illegible] it later built?

That is correct.

And wanted some $12,000.00 from Mr. Hooke to give him what I will call the Federal Equipment land?

To make up the difference between the values of the two [illegible].

And Mr. Hooke said he couldn't afford this?

[illegible]

He didn't give the City of Edmonton $12,000.00?

I don't know if he did or didn't.

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I presume he did, yes.

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[illegible] about that transfer?

[illegible] about it. I merely know that we were [illegible], and we wanted the land in Capilano [illegible] purchaser as well?

[illegible] that. I didn't or I have no knowledge.

[illegible] a purchaser?

A I don't know of their doing that, no.

Q For Mr. Hooke.

A I don't know of their doing that, no.

Q And the profit would become 16,000, sir, I would suggest, rather than 12?

A If it's 16, as you say -- I would say it's in the order of 12 -- that is the impression I had.

MR. MAYNARD: Well, Mr. Commissioner, the witness has said 12. Is Mr. Gill giving the evidence now that the profit was 16,000?

MR. GILL: I'm asking him.

MR. MAYNARD: Well, it wasn't asking -- it was a question -- it was a statement.

THE COMMISSIONER: The witness gave evidence, Mr. Gill, to the effect that he had since learned that the profit was $12,000.00 --- do I understand that to be your evidence, Mr. Menzies?

A In the order of 12, yes.

Q MR. GILL: Do you know how long these negotiations took concerning this Block 5, Mr. Menzies?

A It's hard to remember back to 1950, but it might be a matter of months --- I think it would all be consummated in one year.

Q In Exhibit 91 in these proceedings, a statement by Mr. Hooke, he states:

"In a matter of days I received a call from the City Commissioner telling me that Mr. French of Federal

Q (Cont.) Equipment Western Ltd. was looking favorably at the Bronx site for his company, which was desirous of establishing in Edmonton. He was sending him down to see me and he hoped that arrangements could be made that would be entirely satisfactory to Mr. French and me and the City."

Were you that Commissioner to whom Mr. Hooke --.

A No, I was not.

Q I see.

A I should point out that at that time we had what we called an Industrial Commissioner, but he was not a Commissioner in the same sense that I and Mr. Hodgson were.

Q And Mr. Hooke in Exhibit 91 summarizes this transaction with a statement by saying:

"He conveyed his understanding with the City which was as follows: (1) the Capilano block was to be transferred to the City -- ."

Is that correct?

A Yes, that is correct.

Q That's what we have been calling Block 5?

A Block 5, right.

Q "2. The Bronx site was to be transferred to Federal Equipment Western Limited."

Is that correct? The Bronx site that you have identified, this is the land you proposed to offer to Mr. Hooke if he paid you another $12,000.00?

A That is the one right there.

Q Marked E on Exhibit 368, correct, sir?

A Would you mind repeating that question please?

Q The Bronx site was to be transferred to Federal Equipment Western Limited?

A Not to my knowledge, I thought it was to be transferred directly to either, to Mr. Hooke.

Q Item 3, and I hope Mr. Maynard will listen carefully to this, it is his own client's statement:

"A sum of approximately $16,000.00 was to be paid to me and approximately $12,000.00 to the City to complete the transaction."

A I see that.

Q Yes.

MR. MAYNARD: Mr. Commissioner, Mr. Gill is looking at that, I heard the figures, but that does not mean to say Mr. Hooke made a profit of $16,000.00, at all.

MR. GILL: Well, he got $16,000.00.

MR. CLEMENT: And the point is not to say that Mr. Menzies knows anything about it.

Q MR. GILL: No, I am trying to summarize what Mr. Menzies knows at this stage. Were you aware of that, Mr.

Q (Cont.) Menzies?

A Of the profit that was made at that time?

Q Of the sum that was to be paid Mr. Hooke?

A No, I wasn't.

Q And the sum to the City?

A No, I did not know, in fact, until I was reading in recent years.

Q I see.

A That, of how Federated, I just assumed that it was transferred to Mr. Hooke and he ultimately found a purchaser for it, and he assigned his commitment to Mr. French to do what he had committed to do with us.

Q As I understand your evidence this is just happenstance that Mr. Hooke happened to find a purchaser, Federal Equipment?

A As far as I am concerned, yes.

Q No direct action as far as you are concerned or the City of Edmonton?

A Not by me. I don't know whether Mr. Curtis had any part in that.

Q Did you know of anything of Mr. Hooke in the interval having another purchaser who might have given him the sum mentioned in the amount of $30,000.00?

A No, I did not.

Q I see. Now, leaving the Capilano Bronx exchange; do you know anything of Mr. Hooke's association with Ideal Homes?

A I know that when he came to me in 1950 I think he told me at that time that he was associated or a member, a shareholder

A (Cont.) in Ideal Homes, and that he was dealing for them.

Q It has been given in evidence here, sir, that Mr. Hooke was a shareholder of Ideal Homes up to 1953 and remained a director of the company up until 1955.

A Yes.

Q Would this conform with your general recollection?

A I would think that would be the case, yes.

Q But Mr. Hooke was dealing with the City, dealing with you, dealing with the Council, dealing with various Aldermen from 1955 on until 1965, was he not, on behalf of Ideal Homes Limited?

A I would think he was, yes.

Q Well, was he or wasn't he, sir, as far as your knowledge was?

A He wasn't with me but I do know that he did speak to different Mayors about properties in which Ideal Homes were interested over those, over that period of time.

Q Well, he was the active protagonist for Ideal Homes in the period 1955 to 1965 as far as the City of Edmonton is concerned?

A He was a, I would not say he was the; I think Mr. Campbell and others were also active for the company during that time, but he certainly did speak on its behalf on City matters on more than one occasion.

Q Do you have any evidence or information for the Commissioner as to why a man who is no longer a shareholder or director takes such a part in the affairs of a company for a period of ten years after he ceases to be a director?

A I have no comment about that at all.

Q I see, and can I see if I can summarize what happened: again in the Bronx area, Ideal Homes leased a site, is that correct?

A That is correct.

Q And when the company, Ideal Homes, found they no longer could use it for the purposes they wanted it, wanted for it, they let it go?

A No, I don't think that is the reason they let it go. When they found they couldn't buy it they let it go.

Q I see, they did try to buy it?

A They wanted to buy it.

Q And when they couldn't buy it then they bought other property?

A Well, I presume they bought other, I know they did acquire other property but they did let, they let the lease go.

Q Well, purely and simply they let their lease expire on the portion marked in green by the railway tracks in the Bronx, is that correct?

A That is correct.

Q On Exhibit 368, and they bought what I might call rudely the "chicken house property", the Wellington Park property?

A They had been negotiating in that same period of time for the acquisition of Lots 3 and 4.

Q So that they had no right or title into the railroad property that they formerly leased?

A No.

Q And then in summary, sir, they attempted, Ideal Homes

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Q. So that they had no right or title into the railroad property that they formerly leased?

A. Then in summary, sir, they attempted, Ideal Homes

Q (Cont.) attempted to re-zone the Wellington Park property, you were re-plotting it and they were trying to re-zone it?

A No, they were not really trying to re-zone it, they were trying to use it for purposes other than for which it was zoned. They couldn't get it re-zoned because it was in this state of interim development, and its final zoning was going to depend on the ultimate registration of a plan.

Q I see.

A But they wanted to get a temporary use of the land pending its final subdivision.

Q And the City gave them that temporary non-conforming use?

A That's right, the Boards responsible for it did so, yes, the Boards responsible for doing such things, yes, gave the authority.

Q A City Board?

A Yes.

Q And then the company attempted to have the City make a final zoning of it other than the one the City wanted?

A They made a final attempt to get that land zoned for "commercial" purposes.

Q And this the City was not about to do?

A And the City did not do it.

Q Then they attempted to make an exchange with the City?

A They did, that was done on a number of occasions, yes.

Q And one of the exchanges they proposed was the Buena Vista land?

A That was the last one.

Q And that failed due to the upset of the local inhabitants of Buena Vista?

A They only wanted the exchange effected if the land which they would get under the transaction could be used for hospital purposes.

Q Hospital, or nursing home?

A Well, a nursing home then.

Q Well, was Mr. Hooke interested in a nursing home?

A I don't think so, no.

Q I see.

A I think it was his intention, had he got the property, to sell it to some other -

Q In other words Mr. Hooke wanted a completed deal before he made the exchange?

A Yes, I think he would want to know, if he was making the exchange, that he was getting land that he could do with it what he wanted to accomplish.

Q And then there was the problem of Ideal Homes apparently started to demolish its building, or its chicken house, or something?

A This is quite a bit earlier.

Q I see, when was that?

A This is back in '55.

Q And had they any written assurance from the City that anything would be done before they started to demolish this building?

A No, they had no written.

Q Had they anything else?

A They seemed to think in their statements that appear in various documents that they had the word of me and Mr. Rault that they could move.

Q Did they have your word that they could move?

A No.

Q Had you at anytime said that they could move?

A No, I did not.

Q Yes?

A No, I did not give them such -

Q And we have had in evidence, Exhibit 106 in this matter, where a newspaper by the name of the Edmonton Journal headed an editorial on August 31st, Exhibit 106, My Lord "A CASE FOR JUSTICE"; do you remember that editorial?

A I remember that, yes, I do.

Q The City being encouraged to give justice to Ideal Homes Limited, is that correct?

A I think that was the gist of the editorial.

Q And this was in the period between 1963 when you had received Exhibit 379, this eighteen page document, and 1965, when you received the City solicitor's opinion of April 5th 1965, which is Exhibit 367 in these proceedings?

A The editorial appeared at the time that the matter was before Council which is 1965, I believe.

Q The editorial, sir, is dated August 31st 1964?

A I am sorry. Well, I thought it was '65.

Q And were you at a Council meeting of September 13th, 1965,

Q (Cont.) which resulted in a newspaper story in the Edmonton Journal with a heading "HOOKE'S OFFER TO DROP CLAIM JUST LIKE A BRIBE - EDWARDS"?

A I was there.

Q Is that what Alderman Edwards said in your presence?

A Yes.

Q Well, what was Mr. Hooke trying to do at that Council meeting?

A Mr. Hooke was trying to get Council to arrange to let him have property for his land in Wellington, on which a hospital could be established.

Q And what was he prepared to do if the City would do that re-zoning, drop his claim?

A I am not sure about that, whether he said he would drop his claim or not, I would have to read the minutes.

Q I tender in evidence the Edmonton Journal clipping and I would be obliged if Mr. Short would have copies made for my friends.

THE COMMISSIONER: Have you got the date on it?

MR. CLEMENT: What is the useful purpose of putting in this?

MR. GILL: This is a meeting that Mr. Menzies was at, I understand.

A That is correct.

MR. GILL: I am asking about what was said at that meeting.

MR. CLEMENT: With all due respect to the Journal, this is not necessarily complete.

MR. GILL: That is quite an admission for Mr. Clement.

MR. CLEMENT: I think, sir -

THE COMMISSIONER: May I see it, please?

MR. CLEMENT: I don't care what is in it actually. If Mr. Gill wants to know the City's record of that meeting I presume there are some minutes kept of the meeting.

THE COMMISSIONER: I don't believe, Mr. Gill, that an editorial by the Edmonton Journal is of any real probative value.

MR. GILL: We have already got an editorial in, sir; this is a story.

MR. CLEMENT: The editorial went in because it was tabled by Mr. Turcott as part of the documents.

THE COMMISSIONER: Yes, I really don't think it is of any significance what an editorial writer, I take it it is a matter of opinion, and I don't think the Journal's opinion has any probative value in this Court unless it is brought in here, it is just an editorial opinion and nothing else.

MR. MAYNARD: Mr. Commissioner, this is not even an editorial, it purports to be some kind of a report.

MR. GILL: And no one would ever say that the Edmonton Journal would editorialize in its news columns.

THE COMMISSIONER: Well, I think if there is any relevance to this matter it should be brought in by direct evidence.

Q MR. GILL: Well, you were at this meeting of the City Council?

A I was.

Q And a Mr. Agrios appeared before that Council on behalf of Mr. Hooke?

A That's right.

Q And did Mr. Agrios tell Council that Mr. Hooke would drop any potential claim against the City if Council would re-zone a number of lots on 127th Street and 133rdA Avenue?

A I have no reason to believe he didn't say that, I just don't recall him saying that, but I presume that that is a correct statement.

Q I see. The statement read out of the clipping that I proposed to you?

A It is a statement by Mr. Agrios on behalf of -

Q And you say you presume that is correct as reported?

A I think it would be correct.

Q I now tender it, Mr. Commissioner.

MR. CLEMENT: Well, I don't think this changes the nature of the objection.

MR. WRIGHT: It is not an editorial, My Lord, it is just a news reporting item.

MR. MAYNARD: Mr. Commissioner, with all due respect to the Edmonton Journal, I think we have had ample evidence throughout this Inquiry that it is impossible for the Edmonton Journal to report everything that is said at a meeting, and I do not say this in any way derogatory to the Edmonton Journal. We have reports of proceedings here and, of course, the Edmonton Journal just cannot publish every

MR. MAYNARD: (Cont.) word that is said.

THE COMMISSIONER: This statement, Mr. Gill, in any case would only be admissible, it is straight hearsay, and the only basis upon which it could be used, adduced, is the basis, establish the fact that the Herald or the Edmonton Journal reporter said this, and I don't think it has any bearing on this matter at all.

Q MR. GILL: Very well, sir.

Do you recall, Mr. Menzies, a meeting of the Finance Committee, dated April 7th, 1965, do you have a Minute of that meeting?

A I don't have the Minutes, no.

Q I see, do you have the report that your Commissioner submitted to that Finance Committee?

A I have that, yes, at least I think I have. I know it.

MR. CLEMENT: Yes, it is an Exhibit, I put it before Mr. Menzies.

MR. GILL: No, I think you put in the legal opinion, did you not, or did you put in the actual report?

A I think I have it though.

MR. CLEMENT: The actual report is in evidence, I believe, Mr. Gill.

Q MR. GILL: 367 is the letter from the City Legal Department to the City Commissioners of April 5th, '67, and the report that I am looking for embodies that legal opinion.

A Yes, I have a copy of it now, Mr. Gill.

Q And I don't think it is in evidence yet, Mr. Clement.

Q (Cont.) And you have seen that report, Mr. Menzies?

A It is dated April 7th 1965?

Q Yes sir?

A Yes, I know this report.

Q And it is addressed to the Chairman and Members of the Finance Committee?

A Right.

Q And "Your Commissioners submitthe following report: 1, damage claim of Ideal Homes ..."

A Correct.

Q And that report is signed by yourself, Mr. Tweddle and Mr. Hamilton and Mr. Dantzer?

A That is correct.

Q And concludes:

> "The Commissioners do not think that the claim of Ideal Homes is justified and accordingly do not recommend any compensation for the damages claimed."

A That is correct.

Q And the body of that report contains the opinion of the City solicitor, Mr. Alan Macdonald, Q.C., which was received by you April 5th, 1965?

A Right.

Q And is Exhibit 367 in these proceedings?

MR. CLEMENT: Yes.

A I will have to take your word for the number.

Q MR. GILL: Thank you, and I therefore tender that

Q And you have seen that report, Mr. Monzioe?

It is dated April 7th 1965?

Q Yes sir?

A Yes, I know this report.

Q And it is addressed to the Chairman and Members of the Finance Committee?

Right.

Q And "Your Commissioners submit the following report: 1. damage claim of Ideal Homes ..."

And that report is signed by yourself, Mr. Twedale and Mr. Hamilton and Mr. Dantzer?

That is correct.

And concludes:

"The Commissioners do not think that the claim of Ideal Homes is justified and accordingly do not recommend any compensation for the damages claimed."

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[illegible] Y da these proceedings?

[illegible] word for the number.

[illegible] ou. and I therefore tender that

Q (Cont.) report, Mr. Commissioner.

THE COMMISSIONER: Yes, that report will go in as Exhibit 380.

MR. GILL: Thank you, sir.

THE COMMISSIONER: Dated the 7th of April 1965.

MR. GILL: It is dated April 7th, 1965.

REPORT OF FINANCE COMMITTEE, DATED APRIL 7th, 1965, MARKED EXHIBIT 380.

Q MR. GILL: And deals with, as I have outlined, really the recommendation of the Commissioners, and the legal opinion. Would you hand that, please, to Mr. Short for marking?

A I am sorry, this is my copy.

Q Mr. Short will mark the copy, if he would, please, Mr. Commissioner, so that Mr. Menzies can have his original back?

THE COMMISSIONER: Yes.

Q MR. GILL: Thank you.

Sir, how did you yourself feel about this claim for one hundred and forty or one hundred thousand dollars by Ideal Homes and advanced by Mr. Hooke?

A I did not feel it was justified.

Q Did you feel that it had any merit?

A I certainly thought it had no merit from the standpoint of the Capilano transfer, nor with respect to the lease of the lots. When I read six years later that the people felt that

A (Cont.) they had suffered loss through the buildings being torn down on someone in the City having said that they could move, I did question in my mind whether we had some moral responsibility. It certainly was not a legal one because there was no documentation, there was no transfers, there was no nothing. We, whenever we feel in the City that we have done something wrong by commitment we will honor such a request, but here is six years lapsed, and I don't know whether there is any justification or anything to, on the claim for this demolition of the buildings, and were it there it would be insignificant and not a very great amount. Now, I must say that I have always felt, that if the company felt that it was entitled to monies in the realm of a hundred to a hundred and forty thousand dollars, that they arrived at that conclusion hoping that they would get re-zoning of that property, of their property, which would allow expensive buildings or hotels to go on them, and that would justify that, the stating that amount. But, on the other hand, this is a thing with which I have to contend every day. People are buying land every day and hoping they can get it re-zoned, and if they can get a re-zoning they will get an increment. It is a gamble and a speculation, and I do not see how it can be made the basis of a claim.

Q Did you ever meet with Mr. Hooke and discuss the matter of moving the buildings from the Wellington Park area?

A I think I possibly had one or two discussions with him about the, you see when he came to me, when he was first thinking

A (Cont.) of moving his operation from the land that he had leased from us to Lot 3, he did come to me and he said "Naturally we don't want to let our lease go on what we have, if we haven't another place in which to carry on.".

Q Which lease was this, the lease on the railway property?

A Yes, he didn't want, he wanted to be, to see his business continue and he had to feel that he had a place to go were he to let the lease lapse; so that he said to me "We have this property up there, we have this building, it is in an isolated area, do you think ..." he asked me if I thought he would be able to get permission from Council to carry on temporarily in that area. I said "It is a very bushy outlying area and I am sure that you would get temporary permission to use it for such purposes.".

Q This is to use Wellington Park property?

A Yes.

Q But when they were finally established in Wellington Park with their chicken house and other buildings didn't Mr. Hooke come to see you about an exchange of the Wellington Park land for some other land, and as a condition he asked that the City pay for moving their buildings?

A Yes, this discussion is the one in which they state that they talked to Mr. Rault and I think to Mayor Hawrelak and to me, and this arose out of Rault's going to them and saying "The time is fast approaching when this area is going to be re-zoned, and you should be looking for some alternate premises if you want to keep on operating as, in the house

A (Cont.) building and that type of business, in the construction business".

Q So that of this meeting in Exhibit 379, the gentleman who wrote it says at the top of page 8:

"However, after further discussion he ..."

Mr. Menzies this refers to.

" ... suggested I secure a firm bid from a reliable mover, following which we would discuss it further."

Did you tell Mr. Hooke to get a firm bid for moving these buildings from a reliable mover?

A I think I possibly did say that.

Q Why did you, why would you do that, sir?

A Well, I thought I explained this all the other day, so that I will have to repeat it, I am afraid. I pointed out that Mr. Rault started this business, he carried it forward so far, and without my knowledge he found these four lots which he thought would be lots to which this move coule be made.

Q These were the lots that you were going, that Mr. Clement indicated, with the red spot on the northeast part of the City?

A Yes. No, they are down in green.

Q Pardon?

A The four lots down on 127th Avenue and 129th Street.

Q Oh, I see.

MR. CLEMENT: The yellow, is it not?

Q MR. GILL: Didn't they originally lease that?

MR. CLEMENT: No, I am afraid I have misled you, Mr.

MR. CLEMENT: (Cont.) Gill, I have misled you in the course of my examination. The leasing, that two year lease, is in fact yellow, marked L, I was confusing that with the green which is the thing we are dealing with now.

Q MR. GILL: It is easily done. Thank you for your help.

How many times did Mr. Hooke do you think, approach you, Mr. Menzies, in all this rather involved matter?

A Well, maybe ten times on all the transactions, and all his approaches to me were all made back in, before 1964 I would think. I don't recall ever having any dealings with him subsequent to that time.

Q I see, and in this time what would his position be in the Government of Alberta?

A Well, the time went from 1950 up to 1964 and I think in that-- I am not in a position to say what years he was Minister of this or that but, during a major portion of that time I think he was Minister of Municipal Affairs.

Q Did you ever discuss any other matters such as zoning, in his capacity as Minister of Municipal Affairs?

A Oh, do you mean all over the City?

Q Yes?

A And the general philosophy of zoning and that type of thing?

Q Yes?

A Oh, I would have to do that, yes.

Q So, some days you would be meeting with him as the chief officer in Alberta concerning zoning and planning and just all over forward planning for the City of Edmonton?

A On occasion I would have to discuss Municipal Affairs with him, yes. Quite often I would probably go to the man under him, Mr. Dant who did all the technical end of it, but there were occasions when jointly we would meet with Mr. Dant and with Mr. Hooke to discuss City problems.

Q And then on another time Mr. Hooke would be meeting with you discussing his problem concerning the City and this Ideal Homes matter?

A On occasion we would do that, yes.

Q Did you find this created any difficulty for you, sir?

A Well, I suppose I would have to say I would prefer not -- I

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Q And then on another time Mr. Hooke would be meeting with you discussing his problem concerning the City and this ideal

A (cont.) would rather be dealing without knowing there was any land transactions going on. I would prefer that.

Q Did you deal with him officially on behalf of the City of Edmonton in his capacity as a Minister of the Crown at a time when he was saying the City of Edmonton owed Ideal Homes $140,000.00?

A I think in that time we would have had discussions about municipal problems.

Q And did this affect your judgment at all concerning the claim of Ideal Homes, were you disposed at all favourably to it?

A No, I tried to do it objectively, I tried to reach my opinion wholly objectively, whether we had or hadn't done any wrong.

Q I see. Would you look at Exhibit 101 in these proceedings, would you show him 101 please? That is the Addendum number one, CR24 to the Alderman of the City of Edmonton, a report by the Commissioners on an exchange of property. I have a copy of it, to save time.

MR. CLEMENT: I had it before him earlier this morning.

MR. GILL: This is my copy.

Q MR. GILL: Now, this document is dated April 2nd, 1964 and on the third page --

A The document I have is April 27th.

Q I am sorry, I need my glasses, I can't read on my copy the seven, thank you, so the date April 27th, '64 and page three

Q (cont.) a signature, a name, D. B. Menzies Commissioner, did you sign that?

A I did.

Q And this exchange of property, it relates that Ideal Homes was a company engaged about ten years ago in the construction of houses in Edmonton and at one stage of its life it owned acreage property in the vicinity of 127th Street and 133rd Avenue, that is what we have been calling the Wellington Park property, is that correct, sir?

A That is correct.

Q And it recites the dealings and, on page two, in the last but one paragraph states, down at the bottom:

" The present position is that the company through its officers wants to acquire, not only the Buena Vista site but also a group of seven lots owned by the City in Quesnell Heights. These are listed by the Land Department for sale at $27,000.00 plus local improvements."

A Yes.

Q "It is proposed that the company or its designated agent pay this amount, $27,220.00 plus $3,487.69, a total of $30,707.69 and that the exchange and sale be effected. The only feature of the transaction then requiring explanation is the recommendation that all this be done with no building commitment on the land passing to the company. As to the exchange of the Athlone lots --"

Q (cont.) And, I will have to get another copy.

"As to the exchange of the Athlone lots for those in Buena Vista the company presently has no commitment to build on its present holdings and so none should be required on those to be exchanged."

And, you go on --

"The Commissioners recommend the Council's approving of the foregoing."

In other words, you as a Commissioner in April of 1964 recommended the exchange for the Buena Vista and Quesnell lots, is that correct?

A I think what we were really recommending is to see if the zoning could be effected as would be asked by Council.

Q And Ideal Homes wanted that exchange provided they could build a nursing home in the Buena Vista area?

A That is correct.

Q And as the local residents, led by Mr. O'Byrne, as he then was, opposed this, did they not?

A They did.

Q And therefore the zoning of the Buena Vista for a nursing home was not proceeded with?

A It was called off.

Q It was called off and then Ideal Homes didn't want to go through with the exchange?

A That's right.

Q But I ask you Mr. Menzies in recommending that exchange did

Q (cont.) the position of Mr. Hooke as Minister of Municipal Affairs or as a Minister of the Crown and dealing with you every now and then on behalf of the Government of Alberta, toward the City of Edmonton, did that affect your judgment as to recommending the exchange?

A Well, I have got to say, I gained the impression from Council that they felt there was a bit of moral responsibility to him, that they would like to see something done to at least in part make up for some of the transactions of which he was unhappy and for that reason we were looking around to try to accomplish this.

Q Because he was A. J. Hooke a person or A. J. Hooke a Minister of the Crown?

MR. MAYNARD: That is not what the witness said Mr. Commissioner.

MR. GILL: No, I am asking?

MR. MAYNARD: Well --

A I would want to say, I did feel in the discussions in the Finance Committee and with a number of the Councillors that they did feel it should be effected.

Q MR. GILL: Was this because the City of Edmonton didn't want to be on bad terms with the Minister of Municipal Affairs?

A I am sorry, you would have to ask the Aldermen that.

Q I see, but the Commissioners, did the Commissioners want to be on bad terms with the Minister Mr. Hooke?

A Definitely not.

Q And yet Mr. Hooke as an individual was approaching Mr. Hawrelak, correct, to get some settlement of this Ideal Homes problem?

A Yes.

Q He was approaching Dr. Roper when he was Mayor?

A Yes.

Q And he was approaching various Aldermen, to your knowledge?

A I believe he did, yes.

Q Approaching Mr. Hamilton, the Commissioner for Planning?

A Yes.

Q Approaching Mr. Tweddle?

A I don't think he approached Mr. Tweddle very often but I couldn't say, he didn't approach me personally on it.

Q He did approach you?

A No.

Q He approached the Land Committee of Council?

A Yes.

Q Hooke did and, he approached Mr. McClary?

A I don't know if he did or not.

Q I see, did he approach Dr. Weinlos?

A I can't say.

Q Who is Dr. Weinlos?

A He is an Alderman on the Council.

Q I see, did he approach Mrs. Kinisky?

A I think so but, I am not sure.

Q Well, there was a fair amount of pressure by A. J. Hooke as a person to try and get something out of the City of Edmonton?

A I think he did discuss his problems with various members of Council.

Q And yet at the same time he was a Minister of the Crown?

A Yes.

Q Now, how did you sir manage to separate the difference between his two positions?

A Well, I -- it is not the best relationship, I just did the best I could.

Q Did you feel it was unfair?

A I think it would be better that anytime that a City has to deal with a Minister, it would like to go to him feeling he is not involved in real estate.

Q Personally?

A Yes.

Q Did you feel that Mr. Hooke was bothering you about this matter?

A Not a great deal, no.

Q But he did bother you some?

A No, I can't say he bothered me very much.

Q Did he importune Mr. Hamilton or bother Mr. Hamilton to your knowledge?

A He did speak to him a lot more than he did to me, I don't know whether he bothered him.

Q Do you know how many times?

A No I don't.

Q Did Mr. Hamilton complain to you about Mr. Hooke bothering him all the time about this matter?

MR. CLEMENT: We are calling Mr. Hamilton, sir.

MR. GILL: Well, I would like to cross check it and, we seem to be wandering away from the usual rules.

MR. CLEMENT: Well, we are not wandering from hearsay.

MR. GILL: We are well into it.

A Do you mind repeating your question please?

Q MR. GILL: Did Mr. Hamilton complain to you about Mr. Hooke bothering him a great deal about this?

MR. CLEMENT: Then we should inquire as to whether Mr. Hamilton is justified in complaining to --

MR. GILL: He can answer that too, let's find out.

THE COMMISSIONER: Oh, I think it is a proper question, go ahead.

Q MR. GILL: Thank you.

A He did intimate to me that he didn't like the amount of work he had to be carrying on dealing with this problem.

Q And what was your question Mr. Clement?

MR. CLEMENT: Oh, we will have to find out when Mr. Hamilton will testify.

MR. GILL: Do you want me to ask that? I will do anything to help Mr. Clement?

MR. CLEMENT: I know. I have produced the proper person and I will give you every opportunity.

MR. GILL: Who is now an employee of a large contractor.

MR. CLEMENT: Don't you want him here?

MR. GILL: Yes, thank you, but what he will say I am interested in also.

Q MR. GILL: In Exhibit 379 there is a mention of a meeting held in the Buena Vista District in which thirty-one citizens opposed the construction of a nursing home. Were you at that meeting by any chance?

A No I wasn't.

Q And after your decision of April 7th, 1965 to reject the claim of Ideal Homes, was any court action started by Mr. Hooke or Ideal Homes Limited against the City of Edmonton for damages?

A No.

Q And did the City of Edmonton notify Ideal Homes that their claim had been rejected?

A I don't know if they did it then or later. I presume a copy of this report would be forwarded to Mr. Hooke by our City Clerk.

Q And did the Council of the City of Edmonton in April of 1965 accept the recommendation of the three Commissioners and Mayor Dantzer that no compensation be paid to Ideal Homes Limited for the damages claimed?

A No.

Q And the matter ended there?

A The matter ended there.

Q Do you know what happened to the Wellington Park property?

A It is still, as far as I know, it is still in their

A (cont.) possession and it has got a combined zoning, the back lots are still the original zoning and apartments now are planned.

Q Any developments on it?

A No.

Q Thank you Mr. Menzies.

THE COMMISSIONER: Mr. Bowen?

MR. BOWEN: Thank you sir.

MR. BOWEN EXAMINES THE WITNESS:

Q Mr. Menzies, we will go back for a moment to the Capilano property, Block 5 I believe it is, is that correct sir?

A Right.

Q Now at the time that you were dealing with Mr. Hooke on this land, was there any other areas of land similar to those owned by Mr. Hooke in Capilano?

A Yes.

THE COMMISSIONER: Mr. Short --

Q MR. BOWEN: Was any attempt made to deal with those owners --

THE COMMISSIONER: -- will you try to stop those children out there.

Q MR. BOWEN: -- to try and get their land for the City?

A Not to my knowledge, no.

Q Do you know any particular reason then why Mr. Hooke was the only one of these owners approached?

A No, I can't give you that.

per season and it has got a combined zoning, the

ots are still the original zoning and apartments now

zoned.

y developments on it?

No.

Q Thank you Mr. Monzies.

THE COMMISSIONER: Mr. Bowen?

MR. BOWEN: Thank you sir.

MR. BOWEN EXAM'D THE WITNESS:

Mr. Monzies, we will go back for a moment to the Carriano property, Block 5 I believe it is, is that correct sir?

A Right.

Q Now at the time that you were dealing with Mr. Hooke on this land, was there any other areas of land similar to those owned by Mr. Hooke in Capilano?

A Yes.

THE COMMISSIONER: Mr. Short --

Q MR BOWEN: Was any attempt made to deal with those owners --

THE COMMISSIONER: -- will you try to stop them children out there.

MR. BOWEN: -- to try and get their land for the City?

Not to my knowledge, no.

Q Was any particular reason then why Mr. Hooke was the of those owners approached?

Q Was there any special reason because he was a Cabinet Minister that you were going to confer a favour on him?

A No, there was no intent, it would be he that would be conferring the favour on us if he would agree.

Q I see. You dealt with this personally, by and large?

A I did to the major portion.

Q And you dealt with Mr. Hooke personally on this?

A Very much so.

Q And the approach was made by the City to Mr. Hooke?

A That's right.

Q How did this proceed, was it a meeting in Mr. Hooke's office or telephone conversations or can you describe it?

A Well, 1950, it is a little difficult to remember. I imagine a combination of both.

Q Now, did you ever tell -- let me ask you this, sir --

A I might say sir that ordinarily, that type of negotiation is conducted not by the Commissioners but the principle is decided upon and the donkey work is left to the Land Department and the Legal Department to do the rest.

Q And in this case, did you do the donkey work?

A No, I was at the top end, I think.

Q Of the donkey? In any event, do you know whether the City ever had any intention of zoning this particular Block 5 as apartment?

A No, what we fundamentally wanted was area, was land.

Q All right, now, Mr. Hooke says that the City were going to zone this Block 5 park land?

A I think he could be, he expected it was going to be park land.

Q Did the City ever tell him though that this particular piece was going to be park land?

A I don't know.

Q Did you ever tell him?

A Well, I find it difficult -- when you are evolving a plan for an area that ran all the way from Capilano Ravine right over to 75th Street, we first of all have to get enough land in our possession to come out with it with the land that we need and how it ends up in the final picture awaits the Planner.

Q I don't think you are quite getting my question?

A Sorry.

Q I am speaking about Block 5 owned by Mr. Hooke. I know your problems Mr. Menzies in re-plotting. Now, did you ever tell Mr. Hooke or did the City ever tell Mr. Hooke that that Block 5 was going to be rezoned as park land?

A I doubt if we did.

Q Right?

A Although I must say this that he could very justifiably have thought this because we would be mentioning the fact that we would be needing park land in the district.

Q The zoning at that time was agricultural?

A Yes.

Q I suppose it was suspended zoning?

A It was suspended at that time.

Q Do you know at that time whether there was any development In Capilano? I don't imagine there was, was there?

A There were a few little shacks.

Q No new houses?

A None.

Q Nor services?

A There was no utilities.

Q No utilities. Now, at that time was there anything, to your knowledge, that would have prevented Mr. Hooke from selling this land to another individual other than the City?

A No, there was nothing to prevent it.

Q Did he or, do you have any knowledge of him telling you that he had other sales for this property?

A I can't remember that.

Q Was there any discussion as to what he could sell this property for to a private individual?

A I can't remember that either.

Q How did you arrive at the approximately $7,900.00 appraisal, was this on what zoning basis?

A On as it existed at that time. All our appraisals were made on their zoning as is, not as future or potential.

Q So this was really on the basis of an agricultural piece of land?

A Right.

Q Was there any other land bought by the City in Capilano at this time?

A I believe there was.

Q Do you know the price that was paid?

A No I don't.

Q Do you know whether it was bought for other land?

A It was worked in in the re-plot. There was a lady by the name of Koyk who owned a great deal of property in there and I do recall many dealings we had with the family to get them to take and to give up, we bought land from them in order to get that crescent road that makes a big wind through the Capilano Ravine.

Q This land of Mr. Hooke's was subdivided under Noel Dant?

A It was.

Q It could have been sold as Block 5 without any planning approval?

A It could.

Q And there was nothing then to your knowledge that would have prevented Mr. Hooke from selling this land to another individual?

A No.

Q So that if he had good prices at that time he would have been able to sell it and the City couldn't have stopped him, is that right?

A That's right.

Q Did you know Pat French in 1950 Mr. Menzies?

A No I did not.

Q Was there any problem in the Capilano area of subsidence of the soil surface?

A That area is undermined by the old Red Hot Coal Mine.

Q Right, and in 1950 was there a desire on the part of the City not to develop it because of subsidence?

A No, I don't think so.

Q None whatsoever?

A No, we developed it just as quickly as we could get it re-plotted.

Q The City was prepared to go ahead?

A We had engineering studies from the University to let us know whether they thought there was an danger of settlement.

Q Have you any idea Mr. Menzies why Mr. Hooke did not approach you in 1964 -'65 concerning the Buena Vista swap and his grievances?

A Why he didn't come to me?

Q Yes?

A No.

Q I gather he went to everybody else practically, in the City, except you?

A Well, he didn't come to me.

Q Did you give him any prior indication that you didn't think he was justified?

A No.

Q Thank you sir.

THE COMMISSIONER: Mr. Hill?

MR. HILL: No questions, sir.

THE COMMISSIONER: Mr. Wright?

MR. WRIGHT EXAMINES THE WITNESS:

MR. WRIGHT: My Lord, I would like to give the

MR. WRIGHT: (cont.) witness this Exhibit 379 to read and to satisfy himself that the Minister of the Crown, who wrote it is Mr. Hooke because he is not sure of that.

THE COMMISSIONER: Well, we are about to adjourn anyway and if you want to give it to him to look at over the adjournment, that is fine.

MR. WRIGHT: Very well.

THE COMMISSIONER: We will adjourn.

(The Hearing stood adjourned at 11:10 A.M. and resumed at 11:30.)

MR. WRIGHT EXAMINES WITNESS:

Q Yes, Mr. Menzies, on that one point -- .

MR. MAYNARD: Mr. Commissioner -- ?

THE COMMISSIONER: Mr. Maynard?

MR. MAYNARD: I have checked and I have ascertained that the memorandum that my friend Mr. Wright is referring to was in fact written by Mr. Hooke.

THE COMMISSIONER: Thank you.

Q MR. WRIGHT: And certainly from reading it at the time it was your assumption it was Mr. Hooke?

A That's right.

Q At the time that Mr. Hamilton received it and gave it to the other Commissioners to read?

A That is correct, yes.

Q Yes, and so far as Capilano is concerned, it is -- it does happen, does it not, Mr. Menzies, that when you take land for park land it often doesn't end up as park land that you traded for -- for land that doesn't end up as park land -- or roads?

A Yes, that's right.

Q And that is precisely what happened in this case?

A That's right.

Q Now -- .

A In this particular case, his land -- much of it did go back into housing, but we did get the, we got the land that we wanted down on Capilano ravine bank, and where the road, the major road was constructed.

Q You have told my learned friend Mr. Clement --- or the Commissioner -- when he was questioning you, that Mr. Hooke appeared before City Council and stated his case, so to speak. Was this before City -- the whole of the City Council, or a committee?

A It was before a committee.

Q And what committee was that?

A The Finance Committee, I believe.

Q And did he appear more than once?

A Just the once, I believe.

Q The once?

A Yes.

Q The Finance Committee, you think?

A Before the Finance Committee, yes.

Q Did he make a written submission at that time, too?

A I don't recall.

Q Did he appear with counsel, as well -- counsel -- s-e-l?

A Yes, he -- Mr. Morrow was his counsel, and I believe he was with him.

Q I see. This was the time, then, that Mr. Morrow -- .

A That's right.

Q -- was in the picture, that you have told us about?

A Right.

Q And did Mr. Hooke make quite an impassioned plea to the -- to that Committee at that time?

A I think he was very much concerned, and I suppose the word "impassioned" could probably be used.

[illegible] learned friend Mr. Clement --- or the [illegible] then he was questioning you, that Mr. Moshe appeared before City Council and stated his case, so to speak. Was this before City -- the whole of the City [illegible], or a committee?

[illegible] before a committee.

And what committee was that?

[illegible] Finance Committee, I believe.

And did he appear more than once?

[illegible] the once, I believe.

The once? [illegible]

[illegible]

The Finance Committee, you think?

Before the Finance Committee, yes.

Did [illegible] make a written submission at that time, too?

I don't recall.

Did he appear with counsel, as well -- counsel -- [illegible]?

Yes, I [illegible] -- Mr. Morrow was his counsel, and I believe he was with him.

[illegible] This was the time, then, that Mr. Morrow --

[illegible]

[illegible] picture, that you have told us about?

[illegible] make quite an impassioned plea to the [illegible] at that time?

[illegible], and I suppose the word

Q And he wept?

A No.

Q Were you there?

A I was there, but I didn't see him weep.

Q Did he say he was being ruined -- or to that effect?

A He said that he -- he did make the statement that he was in bad financial state.

Q Yes, and as a result, he said, of what had happened to Ideal Homes Ltd. -- as a result of the things set out in that submission he had put in?

A Yes, that's correct.

Q And you understood -- what did you understand at that time was his interest in the company?

A I don't think I gave any thought to it; I merely thought that he was there to speak on his own behalf.

Q At any rate, he made no distinction between his own problems and those of Ideal Homes Ltd. at that meeting of the Land Sales Committee?

A I think basically he was presenting his own problem.

Q Yes, but his own problem was expressed in terms of what had happened to Ideal Homes Ltd.?

A Yes.

Q It was all one and the same sort of submission on his part?

A Oh, they were interrelated; they couldn't be divorced.

Q Right. Did he say exactly why it was that he was financially pressed -- he himself, as apart from the company?

A I believe he said that he had had to put more money into the

A (Cont.) operation than he had ever expected.

Q Yes.

A And that he had a lot of his own money tied up in it, and it was embarrassing.

Q Was the Mayor at this meeting of the Land Sales Committee -- the Finance Committee?

A He was there, yes.

Q Who else was there?

A Alderman Bodie was Chairman -- all those present are recorded at the top of the exhibit.

Q Oh, thank you very much. That is -- ?

MR. SHORT: Here is the exhibit.

A Here is my copy.

Q MR. WRIGHT: Exhibit 380?

MR. SHORT: 380.

MR. WRIGHT: 380, yes. Around this time -- that is to say, the time that the --- of the report being put in and marked Exhibit 379, by Mr. Hooke, and his submission to the Finance Committee, and the time of the proposed swap, Mr. Hooke was, of course, Minister of Municipal Affairs?

A Yes, he was.

Q And, as Minister of Municipal Affairs can you give us a brief idea of the sort of day-to-day contact, or week-to-week contact, that the City would have with him in his official capacity -- that is to say, dealing with, with City matters?

A Well, as far as direct contact with him, I doubt if it would

A (Cont.) be more than three or four times a year.

Q This is between who?

A Between the Mayor, acting for the Council.

Q Yes.

A And possibly the Commissioners with him.

Q Yes. This is personal meetings with the minister?

A Right.

Q But, on contact with his department, at a fairly high level about all manner of things, who -- ?

A Oh, we are in contact a great deal through our planning department, in that the final appeal board is the Provincial Planning Board, which functions under -- is part of the Department of Municipal Affairs.

Q So that contact on all manner of matters is continuous between that department and the City?

A Oh, there is business going on all the time, yes.

Q And upon many of those matters, to your knowledge, the minister himself has to give an opinion, or his decision, regardless of whether contact is made direct with him or not?

A Well, I would think in some cases, yes, and others probably they -- he doesn't know -- he is not directly contacted. I don't know.

Q No, but you know he has to make decisions on many of these matters.

A That's right.

Q And accordingly, I put it to you, Mr. Menzies, that it was a matter of considerable embarrassment to the Commissioners

Q (Cont.) to be dealing with that minister in his personal capacity at the same time.

A It is embarrassing to some extent, yes.

Q Yes, and it was embarrassing?

A Well, as I say, in recent years I haven't had too much contact, so that I wouldn't be as directly affected as some of the others.

Q Yes, you have told us that you yourself have not been contacted by him, by Mr. Hooke, for some time?

A That's correct.

Q But Mr. Hamilton was in frequent contact with him?

A I believe he was.

Q And it was plain that not only in Mr. Hamilton's case, but with the Mayor and Commissioners, it was a matter of considerable embarrassment, this conflict between the private and public capacities of Mr. Hooke.

A To some extent, yes.

Q Now, when were the annexation proceedings taking place?

A The actual annexation -- the annexation of Jasper Place, the hearing started, I think, on -- I have a record of it here -- started April 1st, 1963, and -- .

Q Yes?

A And terminated on May 31st, 1963.

Q Yes.

A And the ultimate decision was rendered on March 31st, 1964.

Q Yes. Can you --- did you tell us when Exhibit 379 was received?

A I would say it was received sometime, I think, in January or February of 1963.

Q Yes, and this was followed up, you say, by a further submission not long afterwards?

A No, I didn't say that. I said that the submission reached us early in the year of 1963 -- .

Q Yes?

A -- it was with us for a week or so, and then the next contact was Mr. Campbell's going to Mr. Hamilton's home.

Q Oh, yes, yes.

A And discussing it verbally.

Q Yes. Now, did you, Mr. Menzies, or any other Commissioner to your knowledge, receive any indication that if Mr. Hooke was not given justice as he claimed with regard to this matter, things might be "tough" on the matter of the relationship with the department, to the City, and particularly with regard to annexation proceedings?

A The -- as I say -- this is hearsay through Mr. Hamilton, and maybe you will get this more direct -- .

MR. CLEMENT: This, of course, is reaching an area of some critical interest, sir, and perhaps it would be better to have it direct from Mr. Hamilton. I am afraid I am objecting frequently about hearsay, but this perhaps is an area in which the rule might be observed.

THE COMMISSIONER: I think when you are getting to a -- what could be a very crucial aspect, Mr. Wright, that in view of the fact that Mr. Hamilton is going to be called

THE COMMISSIONER: (Cont.) that anything relating to what he said or what can be extracted from him --- I think you better confine yourself to Mr. Menzies' own personal knowledge.

MR. WRIGHT: Very well, my Lord. At any rate, you had a conversation with Mr. Hamilton on this topic?

A Yes, I did.

Q And was this following his meeting with Mr. Campbell?

A Yes.

Q And as a result of your conversation with Mr. Hamilton were you disturbed?

A Yes, I was a bit disturbed, yes.

Q Yes, and so were the other Commissioners and the Mayor, and Mr. Macdonald, the solicitor, as a result of the information Mr. Hamilton had given?

A I would point out to you, Mr. Wright, that the Mayor was not present in our office at the time; he was home. It was dealt with first of all by the Commission Board and Mr. Macdonald, the discussions, the preliminary discussions -- .

Q Yes.

A And arising out of those discussions we felt that the matter should be brought to the attention of the Mayor.

Q Yes.

A And thus it was that we arranged the meeting on Sunday afternoon; he was still incapacitated but he heard the story.

Q Yes. Then, to return to my question, then, the Commission Board and Mr. Macdonald were sufficiently disturbed by this

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d were satisfied disturbed by this

Q (Cont.) that they arranged that you arrange a meeting with the Mayor?

A Right.

MR. CLEMENT: Mr. Commissioner, on consideration, perhaps in view of the general nature of this inquiry, and so on, it might not be inappropriate to enquire as to what was said.

THE COMMISSIONER: Well, I think now that we come to the matter of motive as to why you went to the Mayor --- I will let it in on that basis as to motive, Mr. Menzies.

MR. CLEMENT: I was thinking particularly of what the subject matter of discussion was when the meeting was held with the Mayor.

THE COMMISSIONER: On the basis of motive now, Mr. Wright, you may proceed in questioning as to what transpired at that meeting.

MR. WRIGHT: At the meeting with the Mayor, or Mr. Hamilton?

THE COMMISSIONER: Mr. Hamilton.

MR. CLEMENT: This is the meeting with the Mayor at which Mr. Menzies and Mr. Hamilton and Mr. Macdonald were present -- .

MR. WRIGHT: Fine.

MR. CLEMENT: And perhaps the subject that you are particularly interested in was necessarily discussed at that meeting, I think, perhaps.

Q MR. WRIGHT: Yes, how did that discussion go, Mr. Menzies?

A I beg your pardon?

Q How did that discussion go with the Mayor?

A Well, he was interested, naturally he was very interested in the matter because I think he had to decide in his mind how he should proceed as an elected official as compared with us as appointed.

MR. CLEMENT: What I had in mind, Mr. Wright, was you were asked what was told to the Mayor, and perhaps we could get on with it.

Q MR. WRIGHT: Yes, all right, I am sorry, I shall have to ask the question myself.

A Basically I think that we expressed to the Mayor the fact that this demand had been made of Mr. Hamilton, that an implied threat had been given that if we didn't act that there was a liklihood of it going into Court, and that I think that probably we also pointed out that our relationships are, our personal relationships were hurt by this situation.

Q The difference with the Minister?

A I beg your pardon?

Q By this difference with the Minister?

A Yes.

Q Because it was really putting you on the spot, wasn't it?

A Well, it certainly, we felt we had to reach a decision, are we going to support this thing and pay this money or not.

Q Yes?

A It was putting us on the spot right there.

Q Because at this time you were prepared, you were preparing for these annexation proceedings?

A That is true, we were preparing our brief and our submissions to go before the Local Authorities Board on the -

Q And this matter is within the province of the Department of Municipal Affairs?

A Well, the Local Authorities Board I think is the creature of the Department of Municipal Affairs.

Q Who appoints to the Local Authorities Board?

A I don't know, I think the Executive Council but I am not sure.

Q I see, but at any rate the general topic of municipal boundaries is, so far as the Provincial Government is concerned, within the ambit of the Department of Municipal Affairs?

A Yes.

Q And with regard to the annexation proceedings, so far as arrangements with the Government were concerned, it was the Department of Municipal Affairs that you were speaking to at this time?

A Oh, yes.

Q Constantly?

A We would be talking to them, yes.

Q Yes?

A In the preparation of our brief.

Q Yes, so the one hundred and forty thousand dollar fight with

was putting us on the spot right there.

[illegible] at this time you were prepared, you were preparing [illegible] annexation proceedings?

A That is true we were preparing our brief and our submissions to go before the Local Authorities Board on the -

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A Yes.

Q And with regard to the annexation proceedings, so far as arrangements with the Government were concerned, it was the Department of Municipal Affairs that you were speaking to at this time?

A [illegible], Yes.

Q [illegible] of our brief.

A [illegible] and forty thousand dollar fight with

Q (Cont.) the Minister of that Department at this crucial time was extremely embarrassing, to say the least, was it not?

A I would have preferred it weren't.

Q Yes, exactly, but you would admit, well, I am not asking you to admit anything; but would it be fair to describe it as a very embarrassing situation for the City?

A Well, I suppose I have to say it was embarrassing, yes.

Q So far as any judgment you have ever exercised is concerned, you have always tried to exercise it purely on the factual situation and regardless of any influence, any influence whatever, is that not so, Mr. Menzies?

A I think essentially, yes. Yes, that is the case, I have tried to be objective and I have never been pressured by Council.

Q And it would have been completely useless for Mr. Hooke or any of his agents to try and pressure you into anything, wouldn't it?

A Anything that was not right, I wasn't going to give in, no.

Q Yes. Now, nonetheless, the idea of a swap of land in effect conditional on zoning that would achieve the purpose of the person seeking the swap, which was the arrangement that the, that the Land Sales Committee, is that the proper body?

A Yes, that is correct.

Q That the Land Sales Committee had recommended was somewhat unusual, would this be correct?

A Well, I think we were asked to look into the question of whether any land could be found for this purpose.

Q Yes, that's right, but as I think you have already told us, the arrangement really was that the swap would be acceptable if the Buena Vista land could be zoned in a zoning suitable for hospitals because they wanted to build a nursing home?

A I think they wanted that assurance, yes.

Q Yes, in other words the swap couldn't go forward unless they had that assurance?

A I don't think they wanted to consummate it, no, if they didn't have that assurance.

Q Right. And you couldn't get that assurance until you had an application to re-zone, I suppose?

A And a Hearing, yes.

Q And a Hearing, yes. Is this not an unusual swap, an unusual sort of swap when it is conditional on re-zoning?

A Yes, I think I will have to say that, yes.

Q Yes, and this was not your decision alone, it was the decision of the Land Sales Committee?

A Well, they sort of intimated that we should look into this question and see whether there was any land that could be used for this purpose.

Q Yes?

A I think some of them felt that there was some moral obligation to Mr. Hooke.

Q Yes?

A Moral, not legal, but that maybe there was -

Q Yes, the whole thing was sufficient of an embarrassment that

Yes, that's right, but as I think you have already told us, the arrangement really was that the swap would be acceptable if the Buena Vista land could be zoned in a zoning suitable for hospitals because they wanted to build a nursing home?

A I think they wanted that assurance, yes.

Q Yes, in other words the swap couldn't go forward unless they had that assurance?

A I don't think they wanted to consummate it, no, if they didn't have that assurance.

Right. And you couldn't get that assurance until you had application to re-zone, I suppose?

A And a Hearing, yes.

And a Hearing, yes. Is this not an unusual swap, an unusual sort of swap when it is conditional on re-zoning?

Yes, I think I will have to say that, yes.

Yes, and this was not your decision alone, it was the decision of the Land Sales Committee?

A Well, they sort of intimated that we should look into this question and see whether there was any land that could b used for this purpose.

Q ?

A I think some of them felt that there was some moral obligation to Mr. Hooke.

[illegible] not legal, but that maybe there was -

[illegible] was [illegible] of an embarrassment that

Q (Cont.) perhaps rather unusual steps were justified, would this be true?

A Well, I think they all wanted to get this unsatisfactory situation between the two ended, I mean it had dated for a long period of time.

Q Yes, it was not merely the threat of suit against the City, was it, because you are threatened by action by, oh, possibly thousands of people from January 1st to December 31st of every year?

A No, I think there was, this question of, of whether any of the transactions we had had, had, the one that I am particularly referring to is this question of the moving.

Q Yes?

A That we had, that some of our officials had given them to believe that they could move and that they had suffered damage because of that.

Q Yes?

A And maybe there was a moral obligation there.

Q Yes, you felt that Mr. Hooke maybe had some ground of complaint there, maybe?

A Yes, I didn't feel that way too strongly, but I think some of the others maybe did think that way.

Q Yes, but, of course, his claim was grossly exaggerated even if his complaint were justified on that score in your opinion?

A Yes, I do think, on that particular item.

Q Yes, but was not the fact that not only would this monetary

Q (Cont.) claim be settled, and the moral obligation, such as it was, discharged, but also the fact that the relationship between the City and the Minister of Municipal Affairs, who in so many matters is over them, was that not another factor that could not help influencing that Committee in consideration of the matter?

A I think that Committee would like to have had the matter straightened, to have it ended.

Q Because, simply because he was the Minister?

A No, I think they were getting tired of it, it had been going so long, whether it would have been anybody else too, we had had many years of it, so that I think they were glad to have it terminated.

Q Yes, but if it had been anybody else the rather unusual arrangement would have been rather unlikely, drawing on your years as a Commissioner, to have been suggested, would this not be true?

A Well, if it is a question of a moral obligation rather than a legal one I think we have always accepted and tried to straighten it out on that basis, if it is a question of a moral obligation rather than a legal one.

Q Yes, but what I am suggesting, Mr. Menzies, is that the same moral obligation to a less important person might not have produced the same amount of effort on the part of the City?

A It might have not got so far, I think most moral defects, these things get settled at the Commission Board level.

Q Yes, but Mr. Hooke had been around, I think you have told us,

Q (Cont.) seeing, you told my learned friend Mr. Gill, had seen a number of the Aldermen and some of the Commissioners and the Mayor, and I am just suggesting to you that, drawing on your experience as a Commissioner all these years, the effort that the City went to to try to resolve this moral obligation in respect to the damage to those sheds -

A Yes.

Q - was a little more than you would expect if it had just been Joe Blow who had his sheds damaged?

A I wouldn't want to say that, I think that the Council try to treat everyone, it just so happened it was such a long continuing thing, I don't think I would like to leave the feeling that they would not try to do the right thing for the ordinary fellow as well.

Q No, no, I am not suggesting that at all, I am just suggesting, though, Mr. Menzies, I am just asking you, Mr. Menzies -

MR. MAYNARD: Mr. Commissioner, my friend Mr. Wright has been making suggestions for the past fifteen minutes and trying to get the witness to accept his suggestions that he has made. Surely we have exhausted the subject of the suggestions on the part of Mr. Wright.

Q MR. WRIGHT: I was not, I was simply denying that I was suggesting invidious treatment of an individual, My Lord.

In this proposed swap, Mr. Menzies, who was going to be, who was going to put up the nursing home?

A I think that had it been consummated that the intention was to sell the land to a gentleman from Calgary.

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Q Mr. Wener?

A Yes, W-e-n-e-r.

Q Yes, and how did you know that?

A Because he had, it had come to me through Mr. Hamilton that these discussions had taken place. I was not a party to them.

Q I see, so that discussions between Mr. Hamilton and Mr. Wener?

A I don't believe he was actually in the picture, I think it was all explained to him that Mr. Wener, whatever his name is, fitted into the picture, was all explained to Mr. Hamilton, and transmitted to us. I never heard it -

Q I see, you don't know who explained it to Mr. Hamilton?

A No.

Q Were you present at the meeting on, of September 1965 at which a, at which the submission about re-zoning was made by Mr. Agrios?

A I think I would likely be there, yes.

Q Yes, and at that time it was indicated, was it not, that if the re-zoning could take place that would be a settlement of all matters between the City and Mr. Hooke?

A That is correct.

Q Thank you.

THE COMMISSIONER: Mr. Maynard?

MR. MAYNARD EXAMINES THE WITNESS:

Q Mr. Menzies, we have heard some discussion about the profit that was made by Mr. Hooke on the Bronx property that Mr. Hooke acquired from the City in exchange for the Capilano property; can you tell us what profit the City made on the

Q (Cont.) re-sale of the Capilano property obtained from Mr. Hooke?

A I am sorry, I couldn't tell you that.

Q Could you get the information?

A I don't think I could.

Q The City re-sold it?

A No, because you see it reappears in, it is used in exchanges, we give some of the lots that appear on that land to other people in the area to get the thing straightened up, and we end up not selling anything, we end up by getting land that we can use for our purposes, it is not a re-sale.

Q Was no part of this land sold to any developer?

A I don't think so. I think basically every square foot that we could get was used up for our own purposes, that is why we were in the picture.

Q Yes?

A A comparable area, I would like to make sure, I don't mean that the area we got from him was used by us for our purposes. What I am saying is that if there were so many square feet in his property we ended up with so many square feet in the ultimate subdivision.

Q Exactly.

A For our purposes, not for sale.

Q Well, out of the Capilano property obtained from Mr. Hooke there was more property than the City required for its own purposes?

A That could be, I would have to do some checking back on that.

Q I am referring to the City's own purposes, I am referring to streets and lanes and parks, and so on.

A Right.

Q And the balance, of course, was used in exchange for other property?

A That is likely what would happen.

Q And some of this other property that the City obtained was also disposed of by the City?

A It is conceivable that we did sell some lots finally.

Q Well, Mr. Menzies, all I am trying to get at -

A Yes.

Q - is that in this entire re-plotting scheme of Capilano the City wound up with some lots that were sold to developers?

A That could be, I can't say, I think that likely is the case, but I would have to check the records.

Q And you do not know at what price these lots, whether they were the Hooke lots or land obtained in exchange for the Hooke Capilano lots, were sold for by the City?

A That I can't give you an answer here, I would have to go and check it through the records.

Q Could you do so?

A I would be glad to.

Q Thank you, Mr. Menzies. The City obtained an easement from Mr. Campbell across Lot 21 in Block 33 in the Wellington area, Subdivision Plan 5570.KS, are you familiar with that easement?

A I am familiar with that easement.

property?

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I would be glad to.

You, Mr. Menzies. The City obtained an assessment from [illegible] across lot 21 in Block 39 in the Wellington [illegible] Subdivision Plan 5570.KS, are you familiar with that [illegible]?

[illegible] assessment.

Q And the City paid Mr. Campbell $1.00 for this easement?

A That is our usual practice, yes.

Q Now, let us leave this for a moment. This easement was for a sewer line, by the way?

A I think it is for a sewer and also for, gave us the privilege of going over the property with an overhead wire.

Q As a matter of fact the easement reads: "All utilities"?

A All utilities.

Q Now, when the City obtains an easement for the construction of a sewer line how does the sewer line affect the property on which the City obtains the easement insofar as future construction is concerned?

A Well, we ordinarily try to select it at a point that it will not interfere with construction. In this particular case, if you look at the area that the easement was obtained on, you will see it is right on the property line between two lots, and, therefore, it does not interfere with house building.

Q And consequently there would be no problem in connection with the City granting a permit to build on either of these particular lots?

A As long as it was one family, one family housing.

Q Well, yes, yes, but even if it were a matter of a duplex, how would that, how would the easement affect the construction of a duplex?

A Well, this particular sewer is twenty-eight feet deep, and it has been down for many many years, and nothing has been built.

A (Cont.) From an engineering standpoint I see no objection to building over that sewer if they wished, without any danger to the structure. We might have to put a little bit more stealin the basement, but that is basically all you would do.

Q And then there would be no point in the City objecting to granting a permit for the construction of a building on this lot because of the sewer line underneath?

A No, we would grant it. You have got to clarify one point. If you are talking of it when it was zoned for one family the sewer would not be under the structure. Subsequently the zoning was changed and it was made and ultimately ended up as R5. Now, when you come to build R5, what the developer usually does, he pulls three or four lots together and he builds one building over the whole, and were this to be done in this particular property I think such a building would have to be overtop of that sewer.

Q But there would be no objection from the City point of view to them building over the sewer?

A No.

Q The City would make sure that the required amount of steel was -

A That is correct.

Q - put in the cement construction?

A That's right.

Q And did the City ever refuse a permit for the construction of any building on this property because of the presence of the sewer line?

A Not to my knowledge.

Q I am showing you, Mr. Menzies, a copy of a letter from Mr. Richards, barrister and solicitor, on City of Edmonton stationery, dated July 28th 1959, to Mr. John H. Campbell, dealing with the easement for all utilities across Lot 21, Block 33, Wellington, Plan 557.KS, attached to which is a copy of the easement; would you look at that document and see if you can recognize it?

A Yes, I recognize it.

Q May I file this?

THE COMMISSIONER: Exhibit 381.

LETTER FROM RICHARDS TO CAMPBELL WITH ATTACHMENTS RESPECTING EASEMENT, MARKED EXHIBIT 381.

A If I may clarify one point, I do know that at a later date, sometime in very recent years, the question of putting a larger structure over more than one of the lots was discussed with me and I think it was our Land Department that did it, and asked me if it would be possible to change the power lines around and take them off that property so that they would not interfere with the superstructure. I discussed that with the Electric Light Department and I did think we came up with an answer should we ever be faced with a request for such a building. We haven't actually to my knowledge been asked for such.

Q MR. MAYNARD: Now, you mentioned a moment ago that this area was zoned, re-zoned to R5?

A Ultimately, yes.

Q When was it re-zoned to R5?

A In the last three years, I don't recall the exact date, in fact I would say within the last two years.

Q There had been an application previously for re-zoning in 1965 or was this the one that you are referring to?

A Well, I pointed out, I gave you the chronological history, that the first major request was to get this land, the land that is on 27th Street, zoned for R6, and that this was given procedure through all the affected bodies and ultimately it ended up that Council would not agree to that zoning.

Q To R6?

A To R6.

Q Mr. Menzies, could you give us briefly the difference between R4, R5 and R6?

A R6 is the highest category of zoning that we have as far as density.

Q That is high-rise apartments?

A It takes high-rise apartments, and there is practically no limit to the height they will go, provided they don't create a density beyond a certain point on the properties.

R5 is a modification and restricts the height, but it is still a high density, and usually the difference between R5 and R6 is roughly you get one suite on R5 and two on R6.

Q One suite on R5 and two on R6?

A The density allowed on R6 is almost double that of R5.

Q I see, and R4?

A R4 is down, it is in the realm of a three or four or five

mlm - Maynard Ex.

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see, and R4?

down.

A (Cont.) story building, and again that would probably be half of R5.

Q Now, do you remember if Mr. Campbell made an application to the City for re-zoning of this area to R5?

A I don't know who made the application, I know an application was made.

Q And it was dealt with by the City?

A It was dealt with by the City.

Q And there was a petition attached or presented to the City in connection with the application?

A Objecting, you mean?

Q Well, presented?

A I believe there could have been opposition to its being zoned for R5 from some of the residents, but I don't think Council took cognizance of it.

Q As a matter of fact I think there were two petitions presented, one in favor of the re-zoning and the other opposing it?

A But I don't remember the details.

Q No, you didn't check the -

MR. CLEMENT: Could you ascertain the date of this?

Q MR. MAYNARD: Just a moment, you don't recall the particulars of the petition, as to whether the residents, where the residents lived who signed both petitions?

A Mr. Maynard, the reason that I am not, I can't give you the answers in detail here is, results from the fact that I was given to understand that this information was to be obtained

A (Cont.) from Mr. Rodgers, our planner, of our Planning Department, that he would be giving you all this information, and therefore I did not study up on it, and that is why I cannot give you the answers that maybe you would like.

Q I won't pursue it.

A I am sure Mr. Rodgers will give you all this in detail when you have him.

Q Well, just to tie in the date, do you recall the date that this application was made?

A For the R5?

Q Yes?

A No, not specifically, I know in general terms it is within the last three years, but I cannot remember right down to the specific date.

Q We can obtain that from a further witness?

A Yes, Mr. Rodgers will be giving that.

Q And, of course, there was a re-zoning application also for that other part of, the Wellington area, Lots 20 to 33?

A Yes, I believe there was.

Q And that was an application for re-zoning to R2?

A Yes, to R2.

Q And do you recall what happened to this one?

A No, I don't, I think they did get, I think ultimately some R2 was established and that today some of the land is R2 and some is R5, but again I say if I had known you wanted this in detail I would have studied it up.

Q No, Mr. Rodgers will give us that, that's fine. I will wait

Q (Cont.) until then, Mr. Commissioner.

Now, you told us a few moments ago about a meeting that you held at the Mayor's home when the Mayor was not well?

A Right.

Q And you told us that the Mayor had been informed that a demand had been made to Mr. Hamilton with an implied threat of Court action?

A Yes.

Q Was there any indication or statement made to the Mayor at this meeting at the Mayor's home that if the City did not accede to this request on behalf of Ideal Homes for a settlement of their claim that the application for the City to annex Jasper Place or other areas might be affected?

A I don't think, I have to be quite honest, I have talked to the Mayor, to Mayor Roper as to what happened in recent days, and he gave me to understand that no such thing was said.

Q No such thing was said, fine, thank you.

A That is what he gave me to understand.

[illegible] - Maynard Em.

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No such thing was said, fine, thank you.

That is what he gave me to understand.

Q Thank you Mr. Menzies. Now, do you recall an occasion on which Mr. Justice Morrow appeared before the City to present the case of Ideal Homes?

A I do.

Q And was this before the Council or before the Finance Committee?

A This was before the Finance Committee.

Q And the Finance Committee reported to Council?

A Ultimately, yes.

Q Was Mr. Morrow, Mr. Justice Morrow present at the time that the report of the Finance Committee was presented to Council?

A I don't know.

Q Was Mr. Hooke present?

A I don't know.

Q Would this report to Council be long after the discussion with the Finance Committee?

A No, it would likely go to the following Council meeting which would be about four days later.

Q You do recall specifically Mr. Hooke and Mr. Justice Morrow being present before the Finance Committee?

A I remember Mr. Morrow being there, at least I think I recall his being there, yes, he attended one of the meetings that they heard this case and then Mr. Agrios came into it in some way or another, from the same firm.

Q Did Mr. Agrios come before the Finance Committee or before the City Council?

A I think he was before the Finance -- I don't think the matter ever got before the Council proper, it was all handled -- I beg your pardon, I will have to retract on that because a matter cannot get before the Finance Committee without first coming before Council and being referred to that committee to deal with it so, there must have been some document that came to Council that was the means of it being referred to the Finance Committee for study.

Q Yes, I am just trying to establish the relationship between the two meetings and who was there. Was Mr. Agrios before the City Council when the matter was referred by the City Council to the Finance Committee?

A I am sorry, I am not sure whether he was or wasn't.

Q And you are not sure whether Mr. Agrios ever appeared before the Finance Committee?

A I think he did, because I see reference to his name in that Finance Committee report so he apparently went there.

Q Was he there on the same occasion that Mr. Justice Morrow was there?

A I don't recall to tell you the truth whether they were both there the same night or not.

Q I see, and you do not recall if there were two meetings of the Finance Committee to discuss this matter?

A I would have to check that, if you wish me to.

Q It may not be relevant at the moment and we will just pursue the matter.

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It may not be relevant at the moment and we will just pursue this later.

A Surely.

Q On the occasion when Mr. Justice Morrow was before the Finance Committee, do you recall if Mr. Justice Morrow and Mr. Hooke were asked to retire while the Finance Committee were to discuss the matter further?

A I don't recall.

Q You don't recall this, you don't recall if they volunteered to retire?

A No I don't. It is a detail and I don't recall it.

Q You don't recall, was there any discussion at all by the Finance Committee when these two gentlemen were out of the room?

A I don't remember anything extraordinary other than an ordinary Finance Committee meeting.

Q Well then, would you recall if any decision was made by the Finance Committee when these two gentlemen were there?

A When they were there or when they were out?

Q When they were there?

A No, I doubt if they would make a decision because ordinarily the Finance Committee has three or four items that they are dealing with and hears each one and it deals with each after it hears the delegation and I question if the decision would have been reached while they were there.

Q Right, that is all I am getting to. It is normal to assume Mr. Menzies that the matter was discussed further by the Finance Committee after these gentlemen retired?

A Oh, I think so.

Q As to whether they were asked to wait while the Finance Committee discussed the matter, you do not recall?

A I don't recall.

Q And in due course a decision was made by the Finance Committee and reported to Council?

A That is right.

Q Fine, thank you, that is all.

A Thank you.

THE COMMISSIONER: Mr. Clement?

MR. CLEMENT: No further questions.

THE COMMISSIONER: Thank you Mr. Menzies.

A Thank you very much.

(Witness retires.)

MR. CLEMENT: I call Mr. Macdonald, sir.

ALAN FRASER MACDONALD, sworn, examined by Mr. Clement:

Q Mr. Macdonald, you are a member of the Law Society of Alberta?

A Yes sir.

Q And you are solicitor to the City of Edmonton?

A Yes sir.

Q And you have been for many years?

A Yes sir.

Q There is in evidence Mr. Macdonald a document dated April 5th, 1965 to the City Commissioners and apparently prepared by you; do you recognize that document?

A Yes sir.

Q That as being a copy of it?

A Yes sir.

MR. MAYNARD: Exhibit number?

THE COMMISSIONER: That is Exhibit 367 is it not Mr. Clement?

MR. CLEMENT: 367 is correct, sir. I will put it before Mr. Macdonald.

Q MR. CLEMENT: The document Exhibit 367 Mr. Macdonald represents a considerable amount of research by you into the City files?

A Yes sir.

Q There are two aspects dealt with in this letter, one relates to a leasing back in 1950 of property in Bronx to Ideal Homes and that lease came to an end as far as Ideal Homes was concerned in 1952?

A Correct.

Q I wish to just leave that at that, this document represents the information you gathered together in connection with that transaction?

A Yes sir.

Q Now, could we turn to the other aspect that this letter deals with, namely acre Lots 3 and 4, Wellington Park as they were before the re-plot?

A Yes sir.

Q It is that land in particular and its history that I wish to direct your attention to Mr. Macdonald. There are a number of documents referred to in your letter which I don't think are in evidence yet. Did you bring a file of papers

Q (cont.) which would include the various documents that you have referred to?

A Well, so I am certain what you are speaking of --

Q I am starting at page three?

A Is this where it says "A development permit was issued --" and then the documents are saying such as the make up of the company called Acme Pipe and Supply. Is that the sort of thing Mr. Clement?

Q Yes?

A Yes because what I did was, I had one of the lawyers in my Department search the company records and they are in the file and it is from those company records that I made the statements that appear in the document that is Exhibit 367.

Q Yes, you are referring to Acme Pipe and Supply Company?

A As an example but the others I think are all here, sir. Which of them did you particularly want me to refer to?

Q Well, the development permit of November 4th, 1952 to use -- for Ideal Homes to use the premises as office, storage and prefabricating shop.

If I might interject, I think those documents relating to Sladden refer to the Capilano property.

A You did say 1952? I don't appear to have --

Q Well, just reading from the paragraph on page three which commences in this fashion "By May 30th, 1952 City files show that Ideal Homes had applied"?

A Oh yes. Well, that doesn't say by means of a development permit.

Q Because the Town Planning Department sent a letter on May 30th , 1952 to Ideal Homes?

A Well all I am saying there sir is that the only way I know they applied is that the City wrote them a letter.

Q Yes. I just want to make sure that what you had is a document which is already in evidence. You have a document in your file that you had in mind in writing that?

A That would be the City's letter sir of May 30th '52 and I do not appear to have it, I may merely have looked at the copy that was -- ah --

Q Well, I finally came to it in this tangle of papers Mr. Macdonald, I produce to you a letter of May 30th, 1952, Exhibit 98?

A That will no doubt be the one. I don't have a copy in the file I brought with me, sir.

Q That will be it?

A Yep.

Q That is Exhibit 98 Mr. Commissioner. And then the next reference on page three in your letter is to a document dated July 15th, 1952. Do you see that?

A Yes sir, I have that.

Q I produce Exhibit 107 to you?

A That is the same document, sir.

Q That is the same document, thank you. Now, we turn to the next succeeding paragraph on page three reference to a development permit on November 5th, 1952 to use these two lots for office, storage and prefabricating for a two year

Q (cont.) period but, a letter written to the zoning officer in the Planning Department of the City of November 16th, 1954 makes it plain that the property would not be occupied by Ideal Homes but by a firm called Acme Pipe and Supply.

Now, I don't recall that that development permit has been put in evidence?

A I have a photocopy of it with me, sir.

Q Perhaps I might have it marked, sir. Would you like to keep your file intact or is this a spare set Mr. Macdonald?

A Well, I really don't know but I suggest it will be as safe in your records as anywhere, sir.

Q Well, thank you. I don't know that that is necessarily so. If you would like to have it back, we will have the Court Reporters make a copy of this --

A All right, fine.

Q MR. CLEMENT: -- as an Exhibit.

A Thank you.

Q Could I have this marked then, sir?

THE COMMISSIONER: Would you identify it please?

MR. CLEMENT: A development permit issued November 5th, 1952 addressed to Ideal Homes and Building Supplies Limited in respect of acre Lots 3 and 4, Wellington Park. I think that describes the nature of the instrument. The content is this

"Your application dated May 16th 1952 for permission to convert existing buildings for use as office, storage and prefabricating shop for a period of two

MR. CLEMENT: (cont.)

"years is hereby approved with the following conditions as per attached letter received the 20th day of October, 1952."

THE COMMISSIONER: Exhibit 382.

DEVELOPMENT PERMIT ISSUED NOVEMBER 5th, 1952 TO IDEAL HOMES AND BUILDING SUPPLIES LIMITED WITH RESPECT TO LOTS 3 AND 4 WELLINGTON PARK ENTERED AS EXHIBIT 382.

Q MR. CLEMENT: The letter of the 20th day of October, 1952, do you have a copy of that?

A I didn't realize you were speaking to me. What document did you want?

Q The document I am speaking of Mr. Macdonald is referred to in Exhibit 382?

A I don't seem to have or ever have had from the Planning Department File a copy of that particular letter, sir.

Q Is this possibly the letter which is described in the paragraph we are reading from?

A Well, that is 20th October '52 and the dates don't jibe, you see, so that letter you are asking me about, I am sorry, is not one I have ever seen, to my knowledge.

Q The letter of November 16th, 1954?

A I have November 16th, '54, I have examined it and I have a photocopy in my file, yes.

Q Then could we put that in the record please?

A Yes, it is not in its original form, it has a handwritten note on it which I recognize to be in Mr. Menzies' handwriting

A (cont.) but, apart from that it is ready, sir. Do you want that left on?

Q If you would please and this sir is the letter of November 16th, 1954 addressed to Acme -- of November 16th, 1954 on stationery headed Acme Pipe and Supply Co. Limited and it is addressed to Mr. Fredrickson who was then zoning officer of the Town Planning Department of the City of Edmonton. May I have it marked?

THE COMMISSIONER: Exhibit 383.

LETTER FROM ACME PIPE AND SUPPLY CO. LTD. DATED NOVEMBER 16th, 1954 IS ENTERED AS EXHIBIT 383.

Q MR. CLEMENT: The letter in part reads as follows Mr. Commissioner:

"Dear Mr. Fredrickson: Further to our conversation this morning I have hurriedly prepared a plot plan showing the present location of the Ideal Homes Supplies Company Limited in the 127th Street - 132nd Avenue area. The description is acre Lot 3, Block 1 and so on.

It is my understanding from Mr. Harry Spady of Ideal Homes and Supply Company that permission was granted in 1954 to continue in this location as a wholesale lumber and building supply firm for a period of five years. This promise was made by Mr. Hawrelak himself."

Now Mr. Macdonald, do you know anything about this reference to a promise by Mayor Hawrelak that this location could be

Q (cont.) used for a period of five years in a non-conforming usage?

A No sir. The first I knew of it is when I saw it there. I did ask Mr. Menzies to comment on it and the Exhibit has Mr. Menzies comment.

Q The comment is a marginal note by Mr. Menzies, sir, "I don't know anything about this."

Then the course of the matter following that Mr. Macdonald is set out in your letters?

A Yes sir.

Q Anything further you wish to add to the development of the history of it?

A No sir. It was quite straightforward as far as I was concerned.

Q Yes. Then I would like to bring you to any meetings that you may have had with Mr. Campbell in respect of zoning or exchange of property between the City and Ideal Homes affecting the property up in Wellington Park?

A I never met Mr. Campbell and even today I don't know him by sight, sir, so he never dealt with me.

Q You never spoke to him?

A Not anybody that I knew to be Mr. Campbell. He may have telephoned me but, I very much doubt it.

Q Then did you ever have any conversation or dealing with Mr. Hooke in respect of exchange of the Wellington Park property or zoning or rezoning of it?

A No, Mr. Hooke at no time ever spoke to me of any land

used for a period of five years in a non-conforming

[illegible]

A [illegible] sir. The first I know of it is when I saw it there. I did ask Mr. Menzies to comment on it and the Exhibit has Mr. Menzies comment.

Q. The comment is a marginal note by Mr. Menzies, sir, "I don't know anything about this."

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Q. You never spoke to him?

A. [illegible] I knew to be Mr. Campbell. He may have telephoned [illegible], I very much doubt it.

Q. [illegible] did you [illegible] have any conversation or dealing with Mr. [illegible] of the Wellington Park property

A (cont.) transactions involving him in his personal capacity.

Q Yes. So that these matters then, so far as we have gone in them, are known by you through reference to the files of the corporation?

A They were known entirely sir by reason of the fact that there was at least a suggestion of a possible lawsuit which I was merely asked to assess for its legal worth,as I saw it.

Q Yes. Now, would you come then to a situation that developed, as I understand it, in the spring of 1963, that is the date, I believe fixed by Mr. Menzies, in the spring of that year he told of a Memorandum being delivered to Commissioner Hamilton and which was considered by Mr. Menzies, Mr. Hamilton and I believe, yourself and, that Memorandum has been put in evidence and Mr. Maynard has stated that it was prepared by Mr. Hooke?

A Yes sir.

Q Do you recall that document?

A Yes, I first saw the document, the unsigned document in November of 1962 when it was brought to me by Mr. Hamilton.

Q Your recollection, I thought Mr. Menzies had said early in 1963 but, your recollection --

A I have notes which indicate to me that it was November of '62, sir.

Q Yes, and then what happened in respect of that document?

A Well, it had been given to Mr. Hamilton as he told me shortly after he was appointed a Commissioner and it had been brought to him by the Honourable Ethel Wilson.

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Q. Yes, and then what happened in respect of that document? A. Well, it had been given to Mr. Hamilton as he told me shortly after he was appointed a Commissioner and it had been brought [illegible] a Honourable Ethel Wilson.

Q Yes, who was also an Alderman at that time?

A She was an Alderman of the City and since it involved a claim for in effect, money, against the City, he asked me to go through the document carefully to decide whether there were -- there was a legitimate basis for the complaint that was being registered by the unknown person because I think, even at that time, he believed the person to be Mr. Hooke.

Q Yes, there may be some inherent evidence to support that view, inherent in the document.

MR. WRIGHT: Intrinsic.

MR. CLEMENT: My friends suggest the word intrinsic would be more appropriate.

Q MR. CLEMENT: However, proceed?

A Well, the document then was kept and Mr. Menzies was asked to comment on those aspects of it which seemed to be critical of Mr. Menzies and I assisted him in preparing a document but, to the best of my recollection is that for a long time after that the document was kept and the only other feature of it that is perhaps worth commenting upon is that since the document had been given to us in the way that it was, it wasn't made a public document and it wasn't put into the City records.

Q Now, did you have occasion to attend a meeting at the home of the then Mayor, Mr. Elmer Roper in relation to this document?

A I had occasion to attend a meeting but I don't think that it was because of the document. In other words, the document recited a long history of land transactions with a resulting

Harold - Clement Ex.

ce, who was also an Alderman at that time?

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A (cont.) dollar claim but my best recollection, sir, is that the subject of the meeting attended with Dr. Roper at his home after his operation was occasioned by a conversation which had taken place between Mr. Hamilton and someone else and I don't know who that someone else -- at least I didn't then know who that someone else was.

Q So, this Memorandum which we have been speaking of, was that brought before this meeting?

A Oh yes, long before, we had this for ages.

Q No, no, no, --

A I am sorry.

Q Was it a part of the discussions at the meeting which you described in Mr. Roper's home?

A No sir, this was old hat by then.

Q I see, and had it come to the attention of the Mayor by then?

A I believe so, I don't know.

Q In any event, it came to your attention you said in November of 1962?

A Yes sir.

Q And could you give me an approximate date of the meeting with the Mayor at his home because of his illness?

A I can't. I didn't know what I might be asked but it can be placed quite readily by the fact that Dr. Roper took the occasion, just before Christmas of that time, to go into hospital for an operation intended to improve his hearing and he was at his home and I think it was January of that winter when we went to his home to see him. Now, I believe the year-

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Q That would be, so far as your memory serves you then, sometime in January, 1963?

A Yes.

Q And was there any particular purpose then in holding a meeting with Mayor Roper at his home at that time?

A Well, the annexation application of the City of Edmonton was pending and the Council had decided that it would ask to have Jasper Place annexed to it but it had also asked in order to have some quid pro quo, that there be annexed to the City a substantial area east of the City Limits including the industrial area and what was Sherwood Park and extending, if Sherwood Park wanted it to, as far as the east limit of Sherwood Park and that hearing sir was pending and the communication that caused us to hold the meeting was a communication to Mr. Hamilton implying or inferring that we had better get settled on this Ideal Homes matter as far as that one coming up, if we wanted the one that was coming up to be -- well, if we wanted to avoid any possible disappointments in connection with that hearing.

Q Mr. Commissioner, this will take a little time to explore.

THE COMMISSIONER: Yes, it is one o'clock you can be back tomorrow morning Mr. Macdonald at nine o'clock?

A Yes sir.

THE COMMISSIONER: Then we will adjourn.

(The Hearing stood adjourned at 1:00 P.M.)

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